



Investigation and Review of the Federal Bureau of Prisons' Handling of the Transfer of Inmate James "Whitey" Bulger



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EXECUTIVE SUMMARY

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Background and Introduction

On October 30, 2018, at approximately 8:21 a.m., Federal Bureau of Prisons (BOP) staff members found inmate James "Whitey" Bulger unresponsive in his cell at the U.S. Penitentiary (USP) Hazelton, in Bruceton Mills, West Virginia (Hazelton). Bulger was pronounced deceased at approximately 9:04 a.m. the same day. Bulger, who was 89 years old at the time of his death, had visible injuries to his head and face and appeared to be the victim of a homicide.¹ Bulger had been housed at Hazelton for less than 24 hours, having arrived at Hazelton on the night of October 29, 2018, following the BOP's transfer of him from USP Coleman II (Coleman) in Sumterville, Florida.

Bulger gained notoriety for his criminal history as a violent organized crime leader in New England and was on the FBI's list of the 10 Most Wanted Fugitives for over a decade until he was arrested in 2011 and convicted in 2013 of numerous violent crimes that included his role in the murder of 11 individuals. In about September 1975, despite his criminal history and role as a violent organized crime leader, the Federal Bureau of Investigation (FBI) secretly recruited Bulger to be an informant. During his time as an FBI informant, Bulger was responsible for widespread criminal activity, including numerous murders. Additionally, Bulger's FBI handler, Special Agent John Connolly, was corrupt and was subsequently convicted for his complicity in Bulger's crimes. Bulger's leadership of a notorious and

violent crime organization, his corrupt association with the FBI, and his status as a most wanted fugitive have received significant media attention. His life story has been the subject of multiple books, television shows, and movies. At least three media representatives requested interviews of Bulger while incarcerated after his 2011 arrest.

Questions regarding Bulger's death gave rise to this Department of Justice (DOJ) Office of the Inspector General (OIG) administrative investigation and review of the facts and circumstances surrounding the BOP's handling of Bulger's transfer from Coleman to Hazelton. First, Bulger's transfer to Hazelton and placement in the general population appeared unusual in view of his age, his health, his notoriety and history as an FBI informant, and the record of violence among inmates at that facility. His violent death less than 12 hours after arriving at Hazelton highlighted these concerns. Second, days before Bulger was transferred to Hazelton, news stories were already reporting his impending transfer. Third, BOP documentation showed that when the BOP transferred Bulger from Coleman to Hazelton they did so based on a determination that he required a lower level of medical care than he was receiving at Coleman, even though he was elderly and continued to suffer from cardiac-related health problems which required medical intervention at Coleman and for which hospitalization was frequently recommended.

¹ Consistent with the OIG's ordinary practice, we took care to ensure that our administrative investigation and review did not interfere with the criminal investigation of Bulger's homicide. On August 18, 2022, three individuals, Fotios Geas, Paul J. DeCologero, and Sean McKinnon, all of whom were Hazelton inmates at the time of Bulger's death, were charged in the Northern District of West Virginia with Conspiracy to Commit First Degree Murder in violation of 18 U.S.C. § 371 and related charges in connection with Bulger's death. Geas was also charged with Murder by a Federal Prisoner Serving a Life Sentence in violation of 18 U.S.C. §§ 7(3) and 1118(a).

Bulger's Medical Condition and Placement in a Special Housing Unit for Nearly Eight Months While Coleman Personnel Sought to Transfer Him to Another BOP Prison

According to BOP records, Bulger developed a heart condition called atrial fibrillation in the summer of 2011 after his arrest. In January 2014, the BOP identified Bulger as a medical care level 3 inmate and housed him at the U.S. Penitentiary (USP) Tucson, in Tucson, Arizona (Tucson), which was a high security facility able to provide inmates with level 3 medical care. The BOP assigns medical care levels to inmates based on a variety of factors, with medical care level 1 corresponding to inmates with the least medical needs and level 4 corresponding to inmates with the greatest medical needs. The BOP then places inmates at institutions commensurate with the level of medical care the inmate requires. On September 3, 2014, the BOP transferred Bulger from Tucson to Coleman, which was also a high security, medical care level 3 institution.

In February 2018, the BOP placed Bulger, who used a wheelchair, in Coleman's Special Housing Unit (SHU), where he was separated from the general inmate population and housed alone in a single cell, after a Disciplinary Hearing Officer determined that Bulger had threatened a BOP nurse at Coleman.² This coincided with the beginning of an 8-month effort by Coleman to transfer Bulger to another BOP institution.

The initial Coleman paperwork in April 2018 in support of Bulger's transfer stated that he was being transferred due to safety and disciplinary concerns and requested transfer to another medical care level 3 institution. However, the BOP Southeast Regional Medical Director questioned whether Bulger should be recategorized as a medical care level 2 inmate rather than a level 3 inmate, which would expand the number of prisons where Bulger could be designated, and the request was returned to Coleman for resubmission. Later that same month, Coleman resubmitted its transfer request, again citing safety and disciplinary reasons, but this time sought to transfer Bulger to a medical care level 2 facility. Coleman's request was again denied, this time because Coleman used an incorrect form and sent it to the wrong BOP office. Specifically, Coleman was told that it needed to submit a medical transfer request form rather than a security

transfer form and that it needed to submit the request to the BOP Office of Medical Designations and Transfers (OMDT) rather than the Designation and Sentence Computation Center (DSCC).

In June 2018, Coleman submitted to OMDT the request form seeking to transfer Bulger to a medical care level 2 facility. However, the BOP employee who reviewed the request (OMDT Designator) had concerns about it given Bulger's "complex cardiac history" and his multiple hospital visits. Accordingly, the OMDT Designator sent the request to the BOP Chief of Health Programs (CHP), who was the supervisory physician overseeing OMDT at BOP's Central Office. The CHP determined that Bulger should not be housed at a medical care level 2 facility but rather at a medical care level 3 or 4 facility, and Coleman was instructed in August 2018 to submit a new medical transfer request.

However, Coleman staff did not follow the CHP's guidance; instead, in September 2018, Coleman submitted another request to transfer Bulger to a medical care level 2 facility. The new request did not reference the CHP's determination that Bulger should be housed in a medical care level 3 or 4 facility. It also did not mention the numerous additional cardiac and other medical incidents that Bulger had since February while housed in the SHU. On October 3, 2018, the BOP Medical Director approved the request to transfer Bulger to a medical care level 2 facility.

The OMDT Designator then selected potential institutions for Bulger's transfer and sought required clearances for those institutions. The OMDT Designator noted a preference for Hazelton based on its geographic proximity to Bulger's family in Boston, its medical care level 2 designation, and the OMDT Designator's assessment, based on her prior interactions with Hazelton, of the quality of medical care Hazelton provided to inmates.

Bulger's Transfer to Hazelton and His Death About Twelve Hours Later

On October 8, 2018, the BOP approved Bulger's transfer to Hazelton, a high security, medical care level 2 institution. Before Bulger's transfer, well over 100 BOP employees within BOP's Central Office, Mid-Atlantic Regional Office, Southeast Regional Office,

² According to BOP policy, Special Housing Units (SHU) are "housing units in [BOP] institutions where inmates are securely separated from the general inmate population, and may be housed either alone or with other inmates."

Coleman, and Hazelton were notified of Bulger's impending move to Hazelton.

On October 23, 2018, Bulger departed Coleman and was taken to the Oklahoma City Federal Transfer Center (FTC) en route to Hazelton. Between October 25 and October 29, 2018, multiple inmates sent or received emails or made phone calls indicating that they were aware of Bulger's impending arrival at Hazelton. In addition, on October 26, 2018, several media outlets reported that Bulger had been moved to the Oklahoma FTC, citing the BOP website's inmate locator portal as the source of the information. Bulger arrived at Hazelton on October 29, 2018, at approximately 6:00 p.m. The following morning, October 30, 2018, BOP staff found Bulger unresponsive in his cell.

Following his death, the transfer of Bulger pursuant to a medical transfer request stating that he had reduced medical needs raised questions because Bulger was 89 years old, used a wheelchair, and suffered from a heart condition, among other medical problems. The transfer specifically to Hazelton raised additional questions because of the record of violence among inmates at Hazelton, which housed gang members and inmates with connections to organized crime. Based on our review of incident records, Coleman was a safer facility. In addition, questions were raised about Bulger's immediate placement in the general population at Hazelton rather than the SHU, where the BOP may have been able to better protect him from other inmates until the risks he faced at the Hazelton could be assessed. Further, the specific unit in which Bulger was placed at Hazelton housed at least one other inmate with ties, like Bulger, to organized crime in Massachusetts.

OIG Findings

The OIG's investigation identified serious job performance and management failures at multiple levels within the BOP. For example, we found it deeply troubling that BOP personnel placed an 89-year-old BOP inmate who used a wheelchair and had serious heart conditions for which medical doctors frequently recommended hospitalization and surgery in a single cell in the SHU for 8 months while it was bureaucratically struggling with deciding how to transfer him to a new facility. We similarly found troubling the decision to transfer Bulger to a new facility that provided a lower level of medical care than his prior facility without adequately considering certain

aspects of his medical records, including his repeated cardiac and other medical incidents over the preceding several months. This lengthy SHU placement of Bulger in a single cell before his transfer from Coleman caused him to state in a September 2018 Psychology Services Suicide Risk Assessment that "he had lost the will to live," and may have affected his persistence upon arriving at Hazelton that he wanted to be assigned to general population.

The specific management and performance failures we identified in connection with Bulger's medical transfer included: lack of communication and confusion among BOP personnel regarding the transfer process; BOP medical professionals failing to adequately review Bulger's medical records and failing to take into account Bulger's ongoing cardiac and other medical incidents when making decisions about his medical care level and transfer; BOP officials failing to accurately represent Bulger's medical condition in BOP transfer paperwork; and the BOP not timely updating Bulger's medical care level. We were particularly concerned that the final transfer paperwork submitted by BOP employees was contrary to and did not even acknowledge the clear direction of the BOP's Chief of Health Programs, the supervisory Central Office physician overseeing OMDT, who made a medical determination that Bulger was a medical care level 3 inmate. In addition, we were troubled to find that the decision to lower Bulger's medical care level was actually based on a plausible interpretation of BOP guidelines, and we therefore determined that the guidelines themselves were flawed and lacked clarity.

We also found that, due to BOP's standard procedures, well over 100 BOP officials were made aware in advance of Bulger's impending transfer to Hazelton, and that Hazelton personnel openly spoke about Bulger's upcoming arrival in the presence of Hazelton inmates, which was contrary to BOP policy. The widespread knowledge of Bulger's transfer among BOP officials made it impossible for us to determine the particular BOP employees responsible for these improper disclosures, which resulted in numerous Hazelton inmates being aware of Bulger's transfer to Hazelton days before it occurred. This knowledge among Hazelton inmates subjected Bulger, due to his history, to enhanced risk of imminent harm upon his arrival at Hazelton.

We further found that the steps taken by BOP personnel to assess whether Bulger faced harm from

other inmates at Hazelton were lacking. BOP policy did not require Bulger, based on his inmate profile in BOP databases, to be assessed by a BOP Senior Intelligence Designator—a BOP employee specially trained to conduct intelligence assessments and assess risks by other inmates—prior to his transfer. In addition, several BOP officials told us that they either did not know of Bulger’s notoriety or did not consider his identity in making decisions about his transfer. Multiple witnesses told us that they treated Bulger “like any other inmate.” While the lack of awareness or consideration of Bulger’s identity by BOP officials tends to indicate that these BOP officials did not have improper motivations in connection with Bulger’s transfer to Hazelton, we believe BOP policies should ensure more meaningful and concerted consideration of security risks when an inmate of Bulger’s notoriety is transferred.

The fact that the serious deficiencies we identified occurred in connection with a high-profile inmate like Bulger was especially concerning given that the BOP would presumably take particular care in handling such a high-profile inmate’s case. We found that did not occur here, not because of a malicious intent or failure to comply with BOP policy, but rather because of staff

and management performance failures; bureaucratic incompetence; and flawed, confusing, and insufficient policies and procedures. In our view, no BOP inmate’s transfer, whether they are a notorious gangster or a non-violent offender, should be handled like Bulger’s transfer was handled in this instance.

The OIG has completed its investigation and is providing this report to the BOP to review the performance of the employees as described in this report for any action it deems appropriate. The OIG’s investigation did not find evidence of any federal criminal violations. The OIG has shared the results of its investigation with the U.S. Attorney’s Office for the Northern District of West Virginia. Unless otherwise noted, the OIG applies the preponderance of the evidence standard in determining whether DOJ personnel have committed misconduct. The U.S. Merit Systems Protection Board applies this same standard when reviewing a federal agency’s decision to take adverse action against an employee based on such misconduct. See 5 U.S.C. § 7701(c)(1)(B) and 5 C.F.R. § 1201.56(b)(1)(ii). In addition, we make 11 recommendations for improvements to BOP policies to address the serious concerns we identified during our investigation and review.

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Chapter 1: Introduction

The Department of Justice (DOJ) Office of the Inspector General (OIG) initiated this investigation and review upon receipt of notification from the Federal Bureau of Prisons (BOP) that on October 30, 2018, at approximately 8:21 a.m., BOP staff members found inmate James “Whitey” Bulger unresponsive in his cell at the U.S. Penitentiary (USP) Hazelton, in Bruceton Mills, West Virginia (Hazelton). Bulger was pronounced deceased at approximately 9:04 a.m. the same day. Bulger had visible injuries to his head and face and appeared to be the victim of a homicide.³

Bulger was born on September 3, 1929, and was 89 years old when he died. Bulger gained notoriety for his criminal history as a violent organized crime leader in New England, and was on the FBI’s list of the 10 Most Wanted Fugitives for over a decade until he was arrested in 2011 and convicted of numerous crimes in 2013. Despite his criminal history and continued role as a violent organized crime leader, in about September 1975, the FBI had secretly recruited Bulger to be an informant. During his time as an FBI informant, Bulger was responsible for widespread criminal activity, including numerous murders. Additionally, Bulger’s FBI handler, Special Agent John Connolly, was corrupt and was subsequently convicted for his complicity in Bulger’s crimes. Bulger, his criminal activity, his corrupt association with the FBI, and his status as a most wanted fugitive have received significant media attention. His life story has been depicted in multiple books, television shows, and movies. Indeed, at least three media representatives requested interviews of Bulger while incarcerated after his 2011 arrest.

Bulger’s death was suspicious and raised concerns that resulted in this investigation and review. First, Bulger’s transfer to Hazelton appeared unusual in view of his age, his health, his notoriety and history as an FBI informant, and the record of violence among inmates at that facility. His violent death less than 12 hours after arriving at Hazelton highlighted these concerns. Second, days before Bulger was transferred to Hazelton, news stories were already reporting his impending transfer. Third, BOP documentation showed that the BOP transferred Bulger from USP Coleman II (Coleman) in Sumterville, Florida to Hazelton based on a determination that he required a lower level of medical care than he was receiving at Coleman, even though he was elderly and had significant health problems.

The OIG investigated the facts and circumstances surrounding the BOP’s handling of Bulger’s transfer to Hazelton.⁴ While we did not find that the BOP employees who were involved in his transfer acted with a malicious intent or an improper purpose, we identified serious job performance and management failures at multiples levels within the BOP. For example, we found it deeply troubling that BOP personnel placed an 89-year-old inmate with serious heart conditions for which medical doctors frequently recommended hospitalization and surgery, and who used a wheelchair, in a single cell in the SHU for 8

³ Consistent with the OIG’s ordinary practice, we took care to ensure that our investigation and review did not interfere with the criminal investigation of Bulger’s homicide. On August 18, 2022, three individuals, Fotios Geas, Paul J. DeCologero, and Sean McKinnon, all of whom were Hazelton inmates at the time of Bulger’s death, were charged in the Northern District of West Virginia with Conspiracy to Commit First Degree Murder in violation of 18 U.S.C. § 371 and related charges in connection with Bulger’s death. Geas was also charged with Murder by a Federal Prisoner Serving a Life Sentence in violation of 18 U.S.C. §§ 7(3) and 1118(a). According to the indictment, Geas and DeCologero struck Bulger in the head multiple times while McKinnon served as a lookout.

⁴ Separate investigations were conducted by the FBI and BOP Office of Internal Affairs (OIA). These investigations pertained to the alleged homicide of Bulger as well as any criminal or administrative misconduct by BOP personnel in connection with the homicide.

months while it was bureaucratically struggling with deciding how to transfer him to a new facility, and then decided to transfer him to a new facility that provided a lower level of medical care than his prior facility without adequately considering certain aspects of his medical records, including his repeated cardiac and other medical incidents over the preceding several months.⁵ This lengthy SHU placement of Bulger in a single cell before his transfer from Coleman caused him to state in a September 2018 Psychology Services Suicide Risk Assessment that he had lost the will to live, and may have affected his persistence upon arriving at Hazelton that he wanted to be assigned to general population. We also found that, due to BOP's standard procedures, well over 100 BOP officials were made aware in advance of Bulger's impending transfer to Hazelton, and that Hazelton personnel openly spoke about Bulger's upcoming arrival in the presence of Hazelton inmates, which was contrary to BOP policy and resulted in numerous Hazelton inmates being aware of Bulger's transfer to Hazelton days before it occurred. This knowledge among Hazelton inmates subjected Bulger, due to his history, to enhanced risk of imminent harm upon his arrival at Hazelton. Further, we found that minimal efforts to plan for Bulger's arrival at Hazelton from a security perspective enhanced the risk that Bulger would be harmed by other inmates following his transfer.

The OIG has completed its investigation and is providing this report to the BOP to review the performance of the employees as described in this report for any action it deems appropriate. The OIG's investigation did not find evidence of any federal criminal violations. The OIG has shared the results of its investigation with the U.S. Attorney's Office for the Northern District of West Virginia. Unless otherwise noted, the OIG applies the preponderance of the evidence standard in determining whether DOJ personnel have committed misconduct. The U.S. Merit Systems Protection Board applies this same standard when reviewing a federal agency's decision to take adverse action against an employee based on such misconduct. See 5 U.S.C. § 7701(c)(1)(B) and 5 C.F.R. § 1201.56(b)(1)(ii). In addition, we make 11 recommendations for improvements to BOP policies to address the serious concerns we identified during our investigation and review.

Chapter 2 of this report provides background information, including the OIG's methodology for this investigation and review; a description of the BOP offices and key individuals who were involved in Bulger's transfer; and a discussion of applicable law and BOP policies. Chapter 3 provides Bulger's criminal history, correctional history since his 2013 conviction, and medical history. Chapter 4 provides our factual findings related to Bulger's transfer pursuant to a request for a lower medical care level facility, with a focus on the decision by BOP personnel to lower Bulger's medical care level. Chapter 5 provides our factual findings related to the selection of Hazelton for Bulger's transfer and security considerations in connection with Bulger's transfer. Chapter 6 describes the timeline surrounding Bulger's death at Hazelton. Chapter 7 presents the OIG's analysis. In Chapter 8, we provide our conclusions and recommendations. Finally, Appendix A provides a timeline of key events relevant to this investigation and review.

⁵ Bulger suffered from atrial fibrillation, among other heart problems.

Chapter 2: Background

In this chapter, we describe the methodology we used during our investigation and review, the BOP offices and personnel that were relevant to our investigation and review, and the applicable legal authority, including federal law and BOP policies, guidelines, and practices.

I. Methodology

During the course of this investigation and review, the OIG interviewed more than 30 witnesses, including BOP personnel and inmates, and some witnesses were interviewed multiple times. The BOP personnel interviewed by the OIG included officials in BOP's Central Office and Southeast Regional Office, as well as officials at Hazelton and Coleman. We also collected over 300,000 documents, including Bulger's BOP medical records, BOP records related to Bulger's transfer, BOP policy documents, inmate phone records, staff and inmate emails, financial records, criminal and civil court records, and certain FBI and BOP documents related to their respective investigations of Bulger's death.

II. Relevant BOP Offices and Personnel

The BOP consists of a headquarters office in Washington, D.C. (commonly referred to by BOP employees as "Central Office"), 6 regional offices, and 122 BOP-managed facilities throughout the country that house inmates. Each BOP facility falls under the purview of a regional office. Coleman is in the Southeast Region and Hazelton is in the Mid-Atlantic Region. Each regional office has, among other positions, a Regional Director and a Regional Medical Director (who is a medical doctor), and each BOP facility has, among other positions, a Warden, Associate Wardens, Health Services personnel, Special Investigative Services (SIS) personnel, a Case Management Coordinator (CMC), a Deputy CMC, Case Managers, and Correctional Systems Specialists. The Health Services personnel at each institution includes a Clinical Director, who is a medical doctor that oversees the clinical care provided at the institution and supervises the institution's physicians. The BOP informed us that the Clinical Director at each institution reports to an Associate Warden, and neither the Clinical Director nor the individual doctors report to the Regional Medical Director.

There are several divisions within Central Office. The Central Office divisions relevant to this report include the Health Services Division (HSD) and the Correctional Programs Division (CPD), each of which is led by an Assistant Director (AD). The HSD has a Medical Director, who is a medical doctor that supervises the six Regional Medical Directors throughout the country. The HSD also has a Chief of Health Programs (CHP), who also is a medical doctor. During the period relevant to this investigation and review, there was initially one BOP Medical Director and a separate CHP, until the CHP moved to a different position and the BOP Medical Director then served as both the BOP Medical Director and the Acting CHP.⁶

Both CPD and HSD are involved with the placement of inmates in BOP facilities. Under CPD, the Designation and Sentence Computation Center (DSCC) is charged with, among other things, "[e]nsuring placement of inmates in facilities commensurate with their security and program needs." This process is

⁶ This report references the individuals discussed by the position the individual held during the time period relevant to this investigation and review. Many of these individuals no longer hold these positions, retired, or are otherwise no longer with the BOP.

called “designation” upon sentencing and “redesignation” upon transfer of the inmate. Within HSD, the Office of Medical Designations and Transfers (OMDT) makes designation and redesignation determinations for inmates with medical needs. Both DSCC and OMDT employ Designators, who are charged with applying BOP guidelines to select institutions for the initial placement and transfer of inmates. During the period relevant to this investigation and review, DSCC also employed two Senior Intelligence Designators who assisted in selecting institutions for inmates associated with gangs and for other inmates with enhanced security risks.⁷

The AD of CPD, the Regional Directors, and the Wardens are all involved in actions related to inmates who are designated as Central Inmate Monitoring (CIM) cases. CIM cases are inmates who present “special needs for management” and, therefore, “require a higher level of review which may include Central Office and/or Regional Office clearance for transfers, temporary releases, or community activities.” Examples of CIM cases include inmates who have cooperated with law enforcement (Witness Security or WITSEC cases), inmates who have received widespread publicity as a result of their criminal activity or notoriety as public figures (Broad Publicity cases), and inmates that need to be separated from other specific inmates (Separatees) for security reasons (Separation cases). All designations and redesignations of WITSEC cases must be cleared through the Central Office Inmate Monitoring Section (IMS), which is within CPD. Bulger was a CIM case based on Broad Publicity and Separation. In addition, some of his separatees were WITSEC inmates. As a result, he required both CIM and WITSEC clearance before being transferred.

III. Applicable Law and BOP Policies, Guidelines, and Practices

This section provides background on the laws and BOP policies, guidelines, and practices that are relevant to this investigation and review.

A. Medical Care Guidelines

During the period relevant to this investigation and review, the BOP’s 2014 Revised Medical Classification Algorithm and Criteria (2014 Medical Care Level Guidelines) provided guidelines for BOP medical clinicians to determine an inmate’s “medical care level” and then match the inmate to a facility with a corresponding medical care level. The 2014 Medical Care Level Guidelines stated the following under the heading “Philosophy”:

Prisons are not always built with access to community medical resources in mind. Many federal prisons are in remote rural locations with limited numbers of specialists and small community hospitals. Inmates have a much higher prevalence of chronic medical and mental health conditions than the general population. The goal of this classification system is to match inmate health care needs (particularly in terms of intensity of care issues, access to community medical resources, and functional criteria) to institutions which can meet those needs. Doing so will result in improved management of these inmates' conditions at a lower overall cost to the agency.

The 2014 Medical Care Level Guidelines contained four medical care levels, with medical care level 1 corresponding to inmates with the least medical needs and level 4 corresponding to inmates with the

⁷ The BOP has informed us that it now employs three Senior Intelligence Designators.

greatest medical needs. Under the guidelines, certain medical conditions and certain types of interventions required default medical care level classifications, while other conditions and interventions required application of the “Medical Classification Algorithm.” Under the 2014 Medical Classification Algorithm, an inmate generally was classified as medical care level 4 if the inmate required daily or nearly daily nursing intervention; medical care level 3 if the inmate required clinical interventions more than once per month; medical care level 2 if the inmate’s condition generally could be managed with clinical interventions once every 1 to 6 months (or if the inmate had no chronic medical condition and was over 70 years old); and medical care level 1 if the inmate could be managed with clinical interventions every 6 months or less frequently, provided the inmate was under 70 years old.

The 2014 Medical Care Level Guidelines also contained definitions for types of clinical interventions and how they impact an inmate’s medical care level. There were two types of “clinical interventions” defined in the 2014 Medical Care Level Guidelines. The term “Usual Clinical Interventions” was defined as the “[f]requency of chronic care clinic encounters with a physician or midlevel provider required to maintain the inmate in outpatient status, once the inmate’s major conditions are stable, Optimal Management has been achieved, and a long-range treatment plan has been established.” The guidelines stated that the “frequency of Usual Clinical Interventions is used as one primary criterion for determining care level assignment.” The guidelines defined “Intensive Clinical Interventions” as a “period of increased frequency of monitoring and/or treatment for a duration of 3-6 months...for the purpose of achieving clinical indicators of disease management...[or] to stabilize a condition after a clinical event.” According to the guidelines, “Periods of intensive clinical intervention are not representative of the inmate’s baseline (maintenance) level of clinical intervention, which may be much less frequent. Only the inmate’s baseline is to be used to determine a Care Level assignment.”

However, according to the guidelines, “Intensive clinical intervention beyond a limited duration will be considered chronic or indefinite, and will warrant reclassification of an inmate’s care level.” The guidelines provided criteria for inmates to be reclassified to a higher level of care based on the length of time they received particular types of intensive clinical interventions. For example, the guidelines stated that the BOP should reclassify inmates when they received “provider contacts” daily to monthly for greater than 6 months for the same condition or “specialist consults” at least monthly for greater than 3 months in order to maintain outpatient status. The guidelines did not define the terms “provider contacts” and “specialist consults” or provide guidance on how the guidelines on intensive clinical interventions should be reconciled with the Medical Classification Algorithm.

BOP medical staff told us that a number of factors entered into the assessment of an inmate’s care level using the 2014 Medical Care Level Guidelines and the 2014 Medical Classification Algorithm. These factors included the inmate’s diagnosis, the type of medical treatment the inmate was receiving, the inmate’s ability to perform activities of daily living (ADLs), and the overall stability of the inmate’s medical conditions. Several BOP medical providers told the OIG that while there are certain conditions and treatments that always require particular care level designations, the Medical Care Level Guidelines and Classification Algorithm also allowed BOP healthcare providers to exercise their clinical judgment.

The 2014 Medical Care Level Guidelines did not address how an inmate’s refusal of medical intervention should impact the inmate’s medical care level classification. In May 2019, the BOP issued new guidelines called the Care Level Classification for Medical and Mental Health Conditions and Disabilities (2019 Medical Care Level Guidelines). The 2019 Medical Care Level Guidelines state that “Ordinarily, inmate refusal of treatment solely for the purpose of reducing their care level will not result in a reduction of their care level so long as the underlying condition requiring that treatment persists.”

B. Designations and Redesignation of Inmates to Facilities, Including Medical Designations

1. General Principles Governing Designation and Redesignation

Federal law concerning the place of imprisonment of federal inmates states:

The Bureau of Prisons shall designate the place of the prisoner's imprisonment, and shall, subject to bed availability, the prisoner's security designation, the prisoner's programmatic needs, the prisoner's mental and medical health needs, any request made by the prisoner related to faith-based needs, recommendations of the sentencing court, and other security concerns of the Bureau of Prisons, place the prisoner in a facility as close as practicable to the prisoner's primary residence, and to the extent practicable, in a facility within 500 driving miles of that residence.

18 U.S.C. § 3621(b).

The BOP Inmate Security Designation and Custody Classification Program Statement (Designation Program Statement), dated September 12, 2006, and the BOP Medical Designations and Referral Services for Federal Prisoners Program Statement (Medical Designation Program Statement), dated January 15, 2005, provide guidelines for the designation (initial placement) and redesignation (placement upon transfer) of BOP inmates. The Designation Program Statement states its objectives as follows:

- a. Each inmate will be placed in a facility commensurate with their security and program needs through an objective and consistent system of classification which also allows staff to exercise their professional judgment; and,
- b. Staff will systematically and objectively review an inmate's classification making the environment in which they are housed safer for both inmates and staff while protecting the public from undue risk.

According to the Designation Program Statement, "It is extremely important for Designators to communicate on a regular basis to ensure that designation decisions are consistent."

The Medical Designations Program Statement states its objectives as follows:

- a. Timely and appropriate health care will be given for Federal inmates using Bureau medical, financial, and transportation resources efficiently.
- b. Timely health care will be provided at the most appropriate location....

2. Types of Transfers

There are several types of inmate transfers requiring the redesignation process, and each type of transfer is assigned a code within the Designation Program Statement. The transfer types that are most relevant to this investigation are "Disciplinary" (Code 309), "Close Supervision" (Code 323), and several types of medical transfers.

A Disciplinary transfer results from “an act(s) of misconduct related to documented poor institutional adjustment,” and a Close Supervision transfer results from “an investigation that indicates a safety, security, or escape risk.” According to the Designation Program Statement, disciplinary and close supervision transfers typically result in transfer to another institution of “greater security.” However, wardens may recommend same security level transfers “when placement at a greater security level institution is not possible or other overriding circumstances exist.” The Designation Program Statement states: “Institution staff should carefully review the management of [Disciplinary/Close Supervision] cases on an individual basis, applying sound correctional judgment that considers the safety and security of the inmate, the institution and its staff and the community.”

The types of medical transfers include:

- “Transfer for Medical Treatment” (Code 331), which according to the BOP Designation Program Statement is used to transfer an inmate from “general population for the purpose of obtaining medical/physical treatment in a Medical Referral Center” and “[r]equires a change to a CARE 4 assignment;” but according to comments from the BOP after reviewing a draft of this report, is “utilized the first time an inmate is transferred from a general population facility to a Care Level Three or Care Level Four facility for increased medical care;”
- “Medical Treatment Completed” (Code 332), which, according to the Designation Program Statement, is used when an inmate returns from a Medical Referral Center to the general population, and, according to BOP employees we interviewed, also is used when an inmate transfers from a medical care level 3 to a medical care level 2 facility;⁸
- “Transfer for Hospitalization and Treatment” (Code 335), which, according to the Designation Program Statement, is used when an inmate retains a level 4 status and transfers between Medical Referral Centers; but according to comments from the BOP after reviewing a draft of this report, is “utilized to transfer inmates that retain the Care Level Three or Four assignment [but] require a transfer from their currently Care Level Three or Four facilities due to clinical or custodial needs;”⁹
- “Decrease in Medical Care Level” (338 Transfer), which is used when an inmate’s medical care level decreases from level 3 or 2 to level 2 or 1; and,

⁸ The Designation Program Statement states that Code 338, “Decrease in Medical Care Level,” transfers, discussed two bullets down, are applicable when an inmate transfers from a medical care level 3 to a medical care level 2 facility. However, several witnesses told us that Code 332, “Medical Treatment Complete,” was used, at least at the time of Bulger’s transfer, for inmates whose medical care level decreased from 3 to 2.

⁹ Given the differences between the Designation Program Statement and the BOP’s comments, the OIG asked the BOP to provide any additional or revised policies that reflect the information provided in the BOP’s comments. The BOP responded that its comments were not based on a newer version of the Designation Program Statement or a different policy but rather that its comments were “intended to provide clarification on the current practical use by OMDT of the identified Transfer Codes.”

- “Increase in Medical Care Level” (Code 339), which is used when an inmate’s medical care level increases from level 1 or 2 to level 2 or 3.

According to the Designation Program Statement, “Medical redesignations are initiated for inmates with an acute medical, surgical, or psychiatric condition, or for those inmates who have chronic care needs that cannot be addressed at the parent institution,” and “[o]nly the OMDT will make designations for...cases requiring medical or psychiatric evaluation or treatment.” In addition, the Designation Program Statement states that OMDT “must review all cases in which there is a physical or mental health concern” and that designations and redesignations “will be made by the Central Office Medical Designator” for all inmates who “may need medical or surgical treatment.” BOP employees told the OIG that they understood that the Program Statement required BOP staff to use the medical transfer process anytime a medical care level 3 or 4 inmate is being transferred to an equivalent or different medical care level facility, and any time the inmate’s care level is assessed to require a change during the transfer process, even if the transfer is for a nonmedical reason such as a disciplinary event. Depending on the care level involved in the request and other circumstances, the relevant Regional Medical Director and the Medical Director or Chief of Health Programs at BOP Central Office may review the transfer request to ensure that the inmate is being transferred at the right medical care level.

3. Completing the Transfer Paperwork

Staff at the referring institution (where the inmate is currently housed) completes the transfer request. Disciplinary and Close Supervision transfer requests must be sent electronically to the DSCC Administrator and contain the following:

- (a) Request for Transfer/Application of Management Variable [“Form 409”] (must be thorough and specific);
- (b) Close Supervision investigation report, if requested; and,
- (c) Intelligence data or supporting memorandum if requested.

The Form 409 includes information regarding, among other things, the inmate’s: medical status, institution adjustment, rationale for referral, Central Inmate Monitoring (CIM) information, and any Security Threat Group (STG) associations. The Form 409 is drafted by the inmate’s Case Manager and then approved through “normal institutional review channels,” including the inmate’s Unit Manager and the Warden of the referring institution.

For medical transfer requests, staff at the referring institution completes the Medical/Surgical and Psychiatric Referral Request Form (Form 770) and sends the form to OMDT through the BOP’s Bureau Electronic Medical Record (BEMR). During the period relevant to this investigation and review, the process for Treatment Complete transfers was managed using a paper form (Form 413) that was emailed to OMDT for processing.¹⁰ According to the Medical Designation Program Statement, the Clinical Director of the referring institution, with input from other providers involved with the inmate’s care, is responsible for

¹⁰ According to the BOP, the Treatment Complete process has since been converted to an electronic process through the BEMR.

initiating the Form 770; the Health Services Administrator of the referring institution must review and complete the Form 770; and the Warden of the referring institution must review the Form 770 and authorize the transfer request before it is sent to OMDT.

4. Selecting a Facility

The DSCC and OMDT designators consider various factors in selecting a facility for the inmate's transfer. These factors include security level (explained in next paragraph), custody level (explained in next paragraph), medical care level (discussed in Section III.A. of this chapter); mental health care level; CIM factors, such as Separation or Broad Publicity assignments (discussed in Section III.C. of this chapter); proximity to the inmate's home; institutional programs that the inmate needs; and gang affiliations and related "regional alliances" involving gangs at different institutions (discussed in Section III.C. of this chapter). As noted above, federal law requires that inmates be placed "in a facility as close as practicable to the prisoner's primary residence, and to the extent practicable, in a facility within 500 driving miles of that residence." 18 U.S.C. § 3621(b). One BOP employee described the process as "like putting a puzzle together."

The institution security levels are minimum (also known as prison camps), low, medium, high, and administrative.¹¹ Designators use the BOP's "national on-line automated information system," called "SENTRY," to calculate a point score for each inmate "that is matched with a commensurate security level institution." Inmates are assigned a custody level, which determines "the degree of staff supervision required for an individual inmate." The custody levels, in order from least to greatest supervision needs, are "community," "in," "out," and "maximum." Inmate custody levels are determined based on "criminal history and institutional behavior/adjustment," and custody levels are "routinely evaluated and may change for various reasons during the period of incarceration."

5. Communication of Designation and Redesignation Information to the Receiving Institution

Upon making designations and redesignations, DSCC and OMDT Designators must enter information in SENTRY and forward all supporting documents to the designated institution within 2 working days. According to the Designation Program Statement, the CMC at the designated institution is responsible for monitoring the Daily Log of pending inmate arrivals, reviewing documentation related to the new arrivals, and monitoring the timely arrival of newly designated inmates. If the CMC identifies any errors in the designation, the CMC must notify DSCC. According to the Senior Deputy Assistant Director of CPD (Senior DAD), the CMC at the receiving institution reviews the designation documentation and assesses each inmate's appropriateness for the institution with a "more local picture," because the CMC "know[s] their population better" than the Designator and can work with local SIS, correctional services, and unit team staff who "know the more specialized makeup of that institution."

¹¹ An administrative institution is an "institution with a special mission, where inmates are assigned based on factors other than security and/or staff supervision (for example, medical/mental health, pretrial and holdover). Administrative institutions are designed to house all security level inmates."

The Justice Prisoner and Alien Transportation System (JPATS) schedules the movement and transfer of inmates. Before the inmate is transported, the receiving institution receives a "Manifest Report," which identifies the names, register numbers, and destinations of inmates being moved.

When the inmate arrives at the receiving institution, unit managers, case managers, counselors, SIS staff, medical staff, and mental health staff (depending on the inmate's mental health care level) conduct intake screenings. If staff at the receiving institution have security concerns about the inmate joining the general population, the inmate may be placed temporarily in the Special Housing Unit (SHU) until a further assessment can be completed regarding the appropriateness of the inmate's placement in the general population. According to the BOP's Special Housing Unit Program Statement, dated November 23, 2016, a SHU is a housing unit where inmates are securely separated from the general inmate population, and inmates may be placed in the SHU for various reasons, including disciplinary reasons or for the inmate's protection.

C. Security Issues Related to Transfers of Inmates

1. Central Inmate Monitoring Cases

The BOP uses special procedures for the transfer of CIM cases. CIM cases are inmates who "present special needs for management" and "require a higher level of review which may include Central Office and/or Regional Office clearance for transfers, temporary releases, or community activities."

There are seven CIM categories: Witness Security (WITSEC) Cases, Threats to Government Officials, Broad Publicity, Disruptive Group (DG), State Prisoners, Separation, and Special Supervision. WITSEC Cases include "[i]ndividuals who agree to cooperate with law enforcement, judicial, or correctional authorities." "Broad Publicity" is defined as "[i]nmates who have received widespread publicity as a result of their criminal activity or notoriety as public figures." A DG is "a group, gang, or organization that the Assistant Director, CPD, has formally certified as posing a threat to security that cannot be managed by routine measures." Inmates can receive a DG assignment if they "may require separation from a specific" DG, even if they are not a member of a DG. "Separation" refers to "[i]nmates who may not be confined in the same institution (unless the institution has the ability to prevent any physical contact between the separatees) with other specified individuals who are presently housed in federal custody or who may come into federal custody in the future." An inmate may be designated as a separatee of another inmate if, among other things, the inmate has provided testimony about the other inmate or the other inmate has exhibited aggressive or intimidating behavior towards the inmate.

Multiple BOP employees told us that transfers of CIM inmates, including Broad Publicity inmates, must be reviewed and approved by both DSCC and a senior official in BOP's Central Office, even if the transfer is being handled as a medical transfer through OMDT. In addition, the Designation Program Statement requires all transfers of WITSEC inmates to be approved through the Central Office Inmate Monitoring Section (IMS). If an inmate is both a WITSEC case and requires medical or mental health treatment, "[IMS] will coordinate with the OMDT regarding an appropriate placement." According to the CIM Policy, the Warden is "the clearance authority on all transfers" of CIM cases except for WITSEC cases, and IMS is "the clearance authority on all transfers" for WITSEC cases. The CIM Policy does not set forth standards or steps that must be taken before the Warden or IMS may exercise their respective clearance authority.

The Designation Program Statement requires BOP staff to notify the Central Office Intelligence Section and the Special Investigative Supervisor at the designated institution before the transfer of an inmate who is a validated member of a DG. The Designation Program Statement does not contain other criteria for referring inmates to the Central Office Intelligence Section before transfer.

In addition, BOP officials told us that at the time of Bulger's transfer, there were two Senior Intelligence Designators within DSCC who were available to assist with designations by conducting intelligence assessments. These officials stated that, while Senior Intelligence Designators were generally available to the DSCC and OMDT designators for consultation, BOP practice at the time of Bulger's transfer required designators to refer inmate-transferees to a Senior Intelligence Designator only if the inmate was a member of a Security Threat Group (STG). The BOP's STG Program Statement, defines an STG as an "inmate group, gang, or organization acting in concert to promote violence, escape, drug, or terrorist activity." The STG Program Statement identifies several "subgroups" of STGs, one of which is DGs. Another type of STG is "Street/Prison Gangs," which refers to "gangs formed either in the community or in prison, including organized street gangs or prison gangs, which may act on behalf of themselves or other highly structured groups." A third STG subgroup is "Security Threat Profile" (STP) which refers to "inmates who possess Advanced or Special Skills or who have been assigned an Individual Threat Profile."

A BOP document entitled "Security Threat Group Roster" lists numerous STG assignments and STP assignments. Examples of STG assignments include leader, member, associate, or drop-out of specified gangs. An example of an STP is "Extensive Media."¹² According to the STG Program Statement, assignment of an STG status in Sentry is "based on Bureau-wide security concerns," and "STG status is advisory in nature, and ordinarily does not require specific actions beyond increased security awareness." BOP officials told us that STG generally refers to large scale national gangs or known prison gangs, such as the Crips, the Bloods, the Aryan Brotherhood, or the Mexican Mafia.

BOP officials told us that after Bulger's death, the BOP hired two additional Senior Intelligence Designators, for a total of four, but later reduced the number of Senior Intelligence Designators on staff to three. In addition, on March 8, 2021, and April 6, 2021, the BOP issued Designation Guidance that addresses the role of Senior Intelligence Designators. However, this guidance still does not contain requirements for consultation with a Senior Intelligence Designator before the transfer of a Broad Publicity inmate that is not identified with a "Member, Drop, or Inactive STG assignment."

BOP officials also told us that it has available means to employ to address safety concerns for inmates who formally disassociate with their former gangs (dropouts) or who are otherwise at risk of violence by other inmates due to factors such as high publicity, prior record of sex offenses, or cooperation with law enforcement.

2. Assessments by Special Investigative Services

The Special Investigative Supervisors Manual (SIS Manual), dated June 2, 2016, provides guidelines for Special Investigative Services (SIS) Supervisors, Special Investigative Agents (SIA), and other BOP staff investigating inmate activities. According to the SIS Manual, "[a]ll institutions must have a functional SIS office," and the Warden "assigns at least one Lieutenant to cover" SIS responsibilities in the institution. The

¹² While the Security Threat Group roster includes "Organized Crime" and several specific organized crime groups, such as the Gambino Family, it does not list the Winter Hill Gang, which was the gang that Bulger led in Massachusetts.

SIS is “responsible for ‘proactive’ efforts to deter or prevent criminal activity,” including developing “intelligence regarding inmates or groups of inmates who potentially pose a threat to security or to safety of others.” According to the SIS Manual, if either the inmate himself or staff perceive that there is a generalized threat against an inmate, SIS will conduct a threat assessment. If an inmate requests administrative detention or if staff determine that the inmate needs protection from specific inmates, SIS will conduct a protective custody determination to assess whether the inmate should be placed in administrative detention or protective custody, such as the SHU. The SIS Manual sets out various steps to be taken for threat assessments and protective custody determinations, such as reviewing inmate communications and financial activities.

The SIS Manual states that SIS staff “must play a major role in not only investigating violence, drug use, and escape, but in deterring and preventing such acts. To accomplish this, the SIS must know the facility and the population.” The SIS Manual further states: “The SIS must continually determine which inmates, inmate groups, or outside groups are engaged in activities that pose a threat to the safety of staff or inmates, the security of the institution or the welfare of the community.”

D. Safeguarding Information Regarding Transfers of Inmates

The Designation Program Statement prohibits “the release to the general public of an inmate’s designation or redesignation information...for security reasons, until the inmate has arrived at the designated facility.” The Designation Program Statement provides that the inmate himself “may be advised of his destination but will not be advised of the date or time of transfer.” According to the BOP, “caution should be exercised in advising inmates of their destination. The Warden may define cases where the designation will not be disclosed to the inmate.” In addition, the BOP Standards of Conduct for employees prohibits and subjects employees to discipline for the unauthorized dissemination of official information and the release of information that could breach the security of an institution.

Chapter 3: Bulger's Criminal, Correctional, and Medical History

In this chapter, we describe Bulger's criminal history, correctional and institutional placement history with the BOP, and medical history during his incarceration. In the section regarding Bulger's correctional history, we describe the information Bulger provided to BOP personnel in response to security questions during the intake process at each facility. In the section regarding Bulger's medical history, we describe his frequency of medical encounters during his incarceration, including an increase in medical encounters during his final months at Coleman before being transferred to Hazelton, a lower medical care level facility.

I. Bulger's Criminal History

Bulger was born on September 3, 1929, and was 89 years old when he died. Prior to his incarceration, Bulger gained notoriety due to his involvement from the 1970s through the 1990s in a violent criminal enterprise known as the Winter Hill Gang in Boston, Massachusetts, as well as his successful efforts to avoid apprehension for his crimes for over 16 years. According to Bulger's Presentence Investigation Report (PSR), the Winter Hill Gang made money in a variety of ways, including illegal gambling, extortion, and loansharking, and Bulger and the other members of the Winter Hill Gang were "widely feared due to their vicious reputations." The PSR described numerous violent and ruthless murders for which the Winter Hill Gang and Bulger were responsible. Bulger, his criminal activity and association with the FBI, and his status as a most wanted fugitive have received significant media attention. His life story has been the subject of multiple books, television shows, and movies. Indeed, at least three media representatives requested interviews of Bulger while incarcerated after his 2011 arrest.

In the 1970s, despite Bulger's continued involvement in violent criminal activity, including his responsibility for numerous murders, the FBI secretly recruited Bulger to be an informant to provide information about rival gang members. Specifically, according to court records, in or about September 1975, then FBI Special Agent John Connolly opened Bulger as a confidential informant. However, from approximately 1976 through 1994, Connolly accepted bribes from Bulger and his associate, Stephen Flemmi, in exchange for providing them confidential law enforcement information which enabled them to avoid criminal prosecution and continue their criminal activities. On September 16, 2002, Connolly was sentenced to 121 months in custody and 2 years of supervised release for Racketeering, Obstruction of Justice, and False Statements. According to the Indictment that led to Connolly's conviction, Connolly committed numerous criminal acts in furtherance of Bulger's criminal enterprise, including informing Bulger about individuals who were cooperating with law enforcement, which led to Bulger and others causing those individuals to be killed.

In December 1994, Connolly alerted Bulger that law enforcement agents would soon arrest him on an impending indictment, and Bulger began making efforts to avoid apprehension. On January 10, 1995, Bulger was indicted for dozens of crimes and a warrant was issued for his arrest. Bulger fled Massachusetts to avoid arrest and remained a fugitive for over 16 years. Bulger was on the FBI's list of the 10 Most Wanted Fugitives until June 2011, when he was arrested at his then home in Santa Monica, CA. According to Bulger's PSR, Bulger had "an arsenal of weapons and over \$800,000 in cash hidden inside his apartment walls" at the time of his arrest.

In November 2013, Bulger was convicted in the U.S. District Court for the District of Massachusetts of 31 counts charged in the indictment against him, including for the offenses of racketeering conspiracy and racketeering. In connection with the racketeering conspiracy, which according to the indictment began in 1972, the jury found that Bulger murdered or was responsible for the murders of 11 people. In addition, Bulger was convicted of 23 counts of money laundering, 1 count of extortion conspiracy, 1 count of possession of firearms in furtherance of violent crime, 1 count of possession of machine guns in furtherance of violent crime, and other firearm-related offenses. On December 16, 2013, he was sentenced to serve two life sentences in federal prison and additional periods of incarceration, as well as ordered to pay over \$25 million in restitution. U.S. District Judge Denise J. Casper, who presided over Bulger's criminal trial, stated at his sentencing hearing: "The scope, the callousness, the depravity of your crimes are almost unfathomable.... [T]he testimony of human suffering that you and your associates inflicted on others was at times agonizing to hear and painful to watch." At the time of his conviction, Bulger was also charged by the state of Florida for First Degree Murder, and there was an active warrant for his arrest.

II. Bulger's Correctional History

Upon his arrest in June 2011, Bulger was placed as a pretrial detainee at the Metropolitan Detention Center (MDC) Los Angeles. According to his intake paperwork at MDC Los Angeles, Bulger identified himself as a gang member and a member of the Irish Mafia. He denied that he had assisted law enforcement in any way, that he had testified against anyone in court, or that he knew of any reason that he should not be placed in the general population. On November 26, 2013, after his conviction, Bulger was placed at MDC Brooklyn. According to his intake paperwork at MDC Brooklyn, Bulger again denied that he had assisted law enforcement in any way, that he had testified against anyone in court, or that he knew of any reason that he should not be placed in the general population. He also denied that he was a member or associate of a gang at that time.

Following his sentencing in January 2014, Bulger was designated as a medical care level 3 inmate to USP Tucson in Arizona (Tucson), a high security, medical care level 3 institution. According to Bulger's intake paperwork at Tucson, Bulger identified himself as a member of the Winter Hill Gang and answered "yes" to being a CIM case. However, he answered "no" to whether he had assisted law enforcement in any way, testified in court, or knew of any reason that he should not be placed in the general population.

The BOP assigned Bulger CIM classifications of Broad Publicity and Separation, following his sentencing. The Broad Publicity classification was based on media reporting related to his conviction, and the Separation assignment was based on four unnamed WITSEC separatees and two named separatees, who were added during the course of Bulger's incarceration. One of the named separatees wrote a book detailing Bulger's criminal activities. The other named separatee reportedly assaulted Bulger on April 5, 2014, while he was at Tucson. In addition, BOP records indicate that Bulger had the Security Threat Profile (STP) assignments of "Extensive Media" and "Posted Picture Card File."¹³ One BOP employee told the OIG that Posted Picture Card File is a reference to a "file at the institution" containing "the inmate's special security needs," such as history of escape, criminal history, or publicity issues. Bulger was identified in the BOP's computer system, Sentry, as a CIM case, due to his Broad Publicity and Separation classifications.

¹³ The Extensive Media and Posted Picture Card File assignments are listed in Bulger's BOP records as "STG" assignments. However, based on the BOP's Security Threat Group Roster, these assignments are actually Security Threat Profile (STP) assignments, and one BOP official told us that Bulger was not considered a member of an STG based on these assignments.

However, he was not identified as being a member of "Organized Crime" or a gang, despite his well-known history as an organized crime leader and despite that he had identified himself as a member of the Irish Mafia and a member of the Winter Hill Gang during his intake interviews at MDC Los Angeles and USP Tucson, respectively.

On September 3, 2014, Bulger was transferred to Coleman, another high security, medical care level 3 institution. According to the August 15, 2014 paperwork that led to this transfer, Bulger was transferred through the medical transfer process as a medical care level 3 inmate whose medical condition was stable, and the reason for his referral was "emergent safety/security concerns." BOP documentation further indicated that the Tucson Warden had requested "immediate" transfer because Bulger had been "involved in a [sic] investigation related to a staff/case issue." The August 15, 2014 medical transfer request was reviewed by, among others, OMDT, the Chief of Health Programs, and a DSCC Senior Intelligence Designator. According to an August 22, 2014 email from the Senior Intelligence Designator to other BOP employees, the BOP was initially considering USP Allenwood (Allenwood), but Allenwood staff felt that Bulger "would not be a good fit" due to Allenwood's "population." The Senior Intelligence Designator wrote that Coleman "might be the best" choice for Bulger, since Coleman had "only...one organized crime inmate who is a [sic] ex [law enforcement officer] and worked for the Luchese crime family." During the intake process at Coleman, Bulger answered "yes" to being a CIM case and "no" to whether he had assisted law enforcement in any way, testified in court, was a member or associate of a gang, or knew of any reason that he should not be placed in the general population.

The Coleman Deputy Case Management Coordinator (CMC) told the OIG that when Bulger was transferred to Coleman, she "called a meeting with the Warden, with the SIS, with the captain, and the Associate Warden" to discuss Bulger's Broad Publicity status and whether there were any concerns regarding where he should be housed. She stated that Coleman arranges this type of meeting for all of the "more serious" Broad Publicity cases. She further stated that there were no concerns identified with Bulger being "on the compound." She described the section of Coleman where Bulger was housed as a "disruptive-group-free yard."

In June 2015, Bulger was disciplined and placed in the SHU at Coleman for engaging in a sexual act (masturbation). In March 2018, Bulger was disciplined for threatening a nurse. As described later in this report, following this incident Bulger was placed in the SHU for 8 months and then transferred to Hazelton.

On October 8, 2018, the BOP approved Bulger's transfer to Hazelton. On October 23, 2018, Bulger departed Coleman and was taken to the Oklahoma City Federal Transfer Center (FTC) en route to Hazelton. Bulger arrived at Hazelton on October 29, 2018. According to the Intake Screening Form at Hazelton, Bulger answered "yes" to being a CIM case. He answered "no," when asked whether he was a member of a gang, whether he has ever "assisted law enforcement in any way," whether he has ever testified against anyone in court, and whether there was any reason not to place him in the general population.

III. Bulger's Medical History at the BOP

According to Bulger's BOP records, Bulger had several medical conditions, including hypertension and atrial fibrillation.¹⁴ When Bulger was placed at MDC Brooklyn in 2013, the BOP initially classified him as a medical care level 2 inmate. On November 27, 2013, the Clinical Director at MDC Brooklyn wrote a note in Bulger's file indicating that Bulger was a medical care level 3 inmate, and in January 2014, Bulger was transferred to Tucson, a medical care level 3 institution. Prior to Bulger's transfer to Tucson, Bulger underwent a medical assessment on December 4, 2013, and BOP medical records state the assessment found that Bulger's atrial fibrillation was in "remission".¹⁵ Bulger, nonetheless, continued to be treated for atrial fibrillation with, among other treatments, long-term anticoagulation therapy with Warfarin.¹⁶ In addition, on December 6, 2013, 2 days after Bulger's atrial fibrillation was assessed to be in remission, a pharmacy note stated that Bulger's dosage of Warfarin would be increased due to an assessment of Bulger's condition at the time. BOP medical officials told the OIG that Bulger's treatment with Warfarin is what caused Bulger to be classified as medical care level 3 inmate. Specifically, under the 2014 Medical Care Level Guidelines, the default classification for an inmate who receives anticoagulation therapy for greater than 6 to 12 months is medical care level 3.

On September 3, 2014, Bulger was transferred, still as a medical care level 3 inmate, to Coleman, pursuant to a code 335 "Hospitalization and Treatment Transfer." At the time of his transfer to Coleman, Bulger was prescribed Warfarin daily to be administered at the "pill line" to treat atrial fibrillation.

Less than 3 months after Bulger was placed at Coleman, on November 21, 2014, Coleman's pharmacy department recommended that "serious consideration be given to discontinuing [Bulger's] warfarin [sic]." According to the pharmacy note documenting this recommendation, Bulger had failed to show for an anticoagulation follow-up appointment that day, had "repeatedly no-showed for health services appointments," and was noncompliant with "clinic recommendations." Based on these and other factors, the note stated that continuing Bulger's anticoagulation therapy presented a risk for "a major bleed." However, on February 13, 2015, another note by the same pharmacy employee recommended increasing Bulger's dosage of Warfarin or "a re-evaluation of Warfarin risk vs benefit" based on an assessment of Bulger's condition at that time. According to Bulger's medical file, a Coleman physician agreed with the

¹⁴ Atrial fibrillation is "an irregular and often very rapid heart rhythm (arrhythmia) that can lead to blood clots in the heart. [Atrial fibrillation] increases the risk of stroke, heart failure and other heart-related complications." [https://www.mayoclinic.org/diseases-conditions/atrial-fibrillation/symptoms-causes/syc-20350624#:~:text=Atrial%20fibrillation%20\(A-fib\),and%20other%20heart-related%20complications](https://www.mayoclinic.org/diseases-conditions/atrial-fibrillation/symptoms-causes/syc-20350624#:~:text=Atrial%20fibrillation%20(A-fib),and%20other%20heart-related%20complications).

¹⁵ The medical records in various locations listed some diagnoses as "Current," some as "Remission," and some as "Resolved." The OIG reviewed several medical records in which Bulger's atrial fibrillation was identified as being in remission. In addition, we identified four Pharmacy Clinic notes in Bulger's medical records, all from 2014, with the following language (or language almost identical to it) under the heading, "Other": "The patient has a cardio consult pending to verify his indication for warfarin as a.fib. is listed as 'resolved' in his medical record." However, as described below, we also identified records from 2015, 2016, and 2017, in which Bulger was assessed as currently experiencing atrial fibrillation.

¹⁶ Anticoagulation therapy involves the use of anticoagulants, commonly known as blood thinners, to prevent or prolong blood clotting. See, e.g., <https://www.nhs.uk/conditions/anticoagulants/>. One of the most common anticoagulants is Warfarin. Witnesses we spoke with used the term "Warfarin" interchangeably with "Coumadin." Coumadin is a common brand name of Warfarin. We use the term "Warfarin" to refer to both Warfarin and Coumadin.

pharmacy department's November recommendation and discontinued Bulger's order for anticoagulation therapy in or about February 2015.

The Southeast Regional Medical Director told the OIG that anticoagulation therapy requires a medical care level 3 classification because of the procedures that must accompany it, including regular blood tests, and due to the risk of bleeding. Despite the discontinuation of anticoagulation therapy in or about February 2015, Bulger's medical care level was not reevaluated at that time. Several BOP medical officials told the OIG that BOP staff typically do not reevaluate an inmate's medical care level when the inmate's medical conditions or treatments decrease or are resolved. Rather, the BOP typically waits to re-evaluate an inmate's medical care level until the need arises for the inmate to transfer. The Coleman Clinical Director explained, "I see a lot of patients misclassified. Either they came with the wrong care level classification, or the care level was never changed.... I see that a lot, probably because...we're so short of staff." The Coleman Clinical Director further said that there is no policy requiring routine reviews of inmate care levels. Similarly, Bulger's primary care physician at Coleman (Coleman PCP) told the OIG that BOP staff are not required nor do they have the time to change an inmate's care level every time the inmate's medical situation changes. The Coleman PCP further stated that there is not a formal process for changing an inmate's care level, and there is no requirement to document the reason for a change in care level.¹⁷ In addition, the Coleman PCP told the OIG that a change in medical care level from 3 to 2 would not alone have required Bulger to be transferred from Coleman to another institution because Coleman houses medical care level 2 inmates.

After Bulger's anticoagulation therapy was discontinued, he nonetheless continued to receive medical care for multiple heart conditions, including atrial fibrillation. On October 8, 2015, Bulger received an echocardiogram (EKG) after visiting the BOP Health Services Department complaining of chest pains, dizziness, and weakness. The paperwork completed by the BOP nurse at the Health Services Department stated under the heading "Assessment": "EKG performed—normal sinus rhythm with some abnormalities." On December 25, 2015, Bulger was transported to the closest regional hospital—Leesburg Regional Medical Center (Leesburg Hospital) which was approximately 13 miles from Coleman—due to "ATRIAL FIB, W/UNCONTROLLED VENTRICULAR RATE."

In 2016, Bulger went to the Coleman Health Services Department complaining of chest pain or other cardiac concerns, at least once each in February, March, and November. In February and March 2016, he was admitted to Leesburg Hospital for his heart conditions. For the February incident, BOP paperwork completed by the Coleman PCP stated "EKG reviewed, A-Fib with rapid mean ventricular response." In addition, the results from the EKG from the February 2016 incident contained the following notation: "atrial fibrillation with rapid mean ventricular response." Once at Leesburg Hospital in February and March 2016, Bulger refused recommended medical interventions, including surgery and heart catheterization. Bulger was not hospitalized for the November 2016 complaints.

In 2017, Bulger went to the Health Services Department complaining of chest pains at least once in April, twice in July, once in August, once in September, once in October, and twice in November. Bulger was admitted to Leesburg Hospital in April 2017, and the discharge summary and other medical paperwork indicated that he had atrial fibrillation, severe aortic stenosis, and unstable angina at that time. Specifically, hospital paperwork completed by a physician at Leesburg Hospital in April 2017 stated, "When the patient

¹⁷ After reviewing a draft of this report, the BOP noted that, "BOP policy does require documentation for changing an inmate's care level."

arrived the patient was in atrial fibrillation with [rapid ventricular response]." Similarly, the results from the EKG taken on the date of Bulger's admission contained the following notation: "atrial fibrillation with rapid mean ventricular response." According to the April 2017 discharge summary completed by the same Leesburg Hospital physician, Bulger was "ADMITTED WITH AFIB [ATRIAL FIBRILLATION] WITH RVR [RAPID VENTRICULAR RESPONSE] SUGGESTIVE OF UNSTABLE ANGINA, SEEN BY CARDIOLOGY, FURTHER INVESTIGATION RECOMMENDED BUT [BULGER] REFUSED AND DIDN'T WANT ANY PROCEDURE." (Capitalization in original). Additional paperwork signed by the Leesburg Hospital physician stated: "Assessment: Male patient with severe aortic stenosis who comes in with clinical picture of unstable angina pectoralis. His EKG shows evidence of [atrial] fibrillation with fast ventricular response. He is now converted back to normal sinus rhythm. Medication adjustments will be made. Patient continues to refuse any intervention." On each of the occasions in July, August, September, and November 2017, Bulger refused medical treatment or hospitalization and appeared to feel better by the time he left the Health Services Department, according to the medical records. In October 2017, Bulger received some treatment at the Health Services Department and was not recommended for hospitalization.

In 2018, Bulger sought medical care after experiencing chest pains or shortness of breath seven times in 8 months between February 2018 and October 2018, before he was transferred to Hazelton on October 29, 2018. Specifically, Bulger sought medical care on February 23, May 7, June 28, July 10, August 16, September 19, and October 11, 2018. On May 7, June 28, July 10, and October 11, Bulger reportedly had an abnormal EKG; was treated with oxygen, nitroglycerin pills and sometimes aspirin; and was assessed to need further evaluation or treatment but refused to go to the hospital.¹⁸ Each time Bulger refused hospitalization, he had to sign a medical treatment refusal form acknowledging that he could die due to lack of treatment. On February 24 and September 19, 2018, Bulger was transported to Leesburg Hospital due to the severity of his symptoms but reportedly refused treatment once there. According to the medical records, on all occasions in 2018, Bulger reported and behaved as though he felt well by the end of his medical visit or hospitalization.

However, during a mental health screening in or about July or August 2018, Bulger reportedly stated that he wanted to "go to a medical center." According to the paperwork from the mental health screening, Bulger "reported he has had approx. 8 heart attacks in SHU [sic]. He is concerned about his health noting he does not want to die in SHU. He requested assistance is [sic] being transferred to a Medical Facility."

On April 13, 2018—between the February 2018 hospitalization and the May 7, 2018, clinical visit at Coleman—the Coleman Clinical Director entered an administrative note in Bulger's medical file changing Bulger's medical care level from 3 to 2 "per the BOP Medical Classification Guidelines and Algorithm." As discussed in Chapter 4, Part II of this report, the Coleman Clinical Director told the OIG that he changed Bulger's medical care level because Bulger was no longer receiving anticoagulation therapy and because the Southeast Regional Medical Director had denied a request by Coleman to transfer Bulger to another facility after the Southeast Regional Medical Director concluded that Bulger did not appear to be properly designated as a medical care level 3 inmate.

The BOP medical records indicate that several, but not all, of Bulger's complaints of chest pains or shortness of breath were precipitated by an event that caused Bulger anxiety. For example, on September 28, 2017, Bulger stated that he experienced chest pain after he had been pounding on his cell door because

¹⁸ The Coleman Assistant Health Services Administrator (AHSA) told the OIG that nitroglycerine is used to treat angina, or pain in the heart.

he needed his medication refilled, according to the medical records. Bulger reportedly stated, "I worked myself all up and my chest started to hurt." According to the medical record, the Health Services Department provided Bulger nitroglycerin tablets, which relieved his symptoms. On October 20, 2017, Bulger stated, according to the medical records, that he experienced chest pain after an argument with another inmate for playing music loudly.

Chapter 4: Factual Findings Related to Bulger's Transfer Pursuant to a Request for a Lower Medical Care Level Facility

This chapter describes the OIG's factual findings related to the decision to transfer Bulger to a lower medical care level facility. Bulger was transferred pursuant to a request that originated with Coleman's Health Services staff, which stated that he had completed medical treatment and required a lower level of medical care than he was receiving at Coleman. Following Bulger's death, questions arose about this request because Bulger was 89 years old, used a wheelchair, and continued to suffer from a heart condition, among other medical problems.

As described in this chapter, we found that Bulger's transfer was precipitated by a disciplinary incident involving Bulger threatening a BOP nurse, rather than medical events. However, during the transfer process, BOP medical personnel assessed that Bulger had been classified at the wrong medical care level during most of his placement at Coleman. According to BOP paperwork and witness testimony, this assessment led to Bulger being transferred using a medical "treatment completed referral," even though Bulger was in fact being transferred for security reasons due to the disciplinary incident. In this chapter, we first describe the disciplinary incident that precipitated Bulger's transfer. We then describe the lengthy administrative process that led to Bulger's ultimate transfer pursuant to a request to place him at a lower medical care level facility, including factors that led to delays in the process.

I. Threat Incident Precipitating Bulger's Placement in the Special Housing Unit at Coleman and the BOP's Decision to Transfer Him

According to a March 16, 2018 BOP Disciplinary Hearing Officer (DHO) Report, on February 23, 2018, Bulger was in the Health Services Department at Coleman complaining of chest pains. The Coleman Assistant Health Services Administrator (Coleman AHSA or nurse) told the OIG that Bulger originally came to the Health Services Department to obtain a "special pass for an upcoming visitation."¹⁹ The Coleman AHSA stated that she had Bulger wait in the lobby, because there was another inmate with a more urgent medical need. The Coleman AHSA said that this made Bulger "mad," and "he then started banging on the door at the lobby, now complaining of chest pain." She said that she and other medical staff then evaluated Bulger, determined that he had a significant arrhythmia or irregular heartbeat, and consulted with a BOP doctor who recommended that Bulger be sent to the hospital. The Coleman AHSA told the OIG that she had taken EKGs of Bulger in the past, and the result on this occasion was "probably one of the worst" she had seen for Bulger. According to Bulger's medical chart, Coleman medical staff determined that Bulger was experiencing "severe cardiac complications" and recommended that Bulger be transferred to the emergency room for further evaluation and treatment.

According to the DHO Report, Bulger then became "argumentative," refused to go to the hospital, told the Coleman AHSA that she had caused his heart attack, and stated to the Coleman AHSA: "You are treating me like a dog, doing all this to me. You will have your reckoning and will pay for this. I know people and my word is good." The DHO found that the Coleman AHSA understood Bulger's statement to be a

¹⁹ The Coleman AHSA told us that she functioned as both a practicing nurse and the nurse supervisor at Coleman.

threat. The Coleman AHSA told the OIG that she was concerned that Bulger would act on his threat, because Bulger “had a following” within the prison that could help him.

As a result of this incident, on February 26, 2018, Bulger was placed in the Special Housing Unit (SHU) at Coleman, and the incident was referred to Special Investigative Services (SIS) for an investigation and to the DHO for a hearing.²⁰ The DHO hearing took place on March 13, 2018. According to the DHO report, Bulger was advised of his rights before the DHO, waived his right to a staff representative, denied the charges against him, and declined to present any witnesses or evidence aside from his own statement. During the DHO hearing, Bulger stated:

I went to medical to ask for a long sleeve shirt to wear to visitation and she [the Coleman AHSA] started arguing with me. I went back in the waiting room. Other inmates asked what was wrong. I knew I was having a heart attack so I knocked back on the window. [The Coleman AHSA] came back to the door and I asked her for an EKG and oxygen. She gave it to me and when she saw the EKG she said I was going to the hospital. I told her I came in for a long sleeve shirt and she’ll have a day of reckoning and I’ll expose her for giving me a heart attack. She gave me a heart attack due to yelling at me. It was all blown out of proportion. I didn’t threaten her.

On March 16, 2018, the DHO issued a report finding that Bulger “committed the prohibited act of conduct which disrupts...most like threatening.” Further, the DHO issued the following sanctions: 30 days disciplinary segregation in the SHU, 90 days loss of commissary privileges, 90 days loss of email privileges, and 30 days impound of personal property. On March 27, 2018, Coleman’s SIS, based on the conclusion of the DHO and its own investigation, recommended that Bulger remain in the SHU until he could be transferred to a facility commensurate with his “security and programming needs.”

II. Coleman Uses the Medical Designation Process to Transfer Bulger Following the Threat Incident, Leading to Coleman Lowering Bulger’s Medical Care Level

In April 2018, following Bulger’s threat against the Coleman AHSA and the subsequent disciplinary process, the BOP began the redesignation and transfer process. Bulger’s redesignation was one of many that occur yearly within the BOP. According to BOP employees, the BOP processes tens of thousands of initial designations and tens of thousands of transfer redesignations every year. As described below, this process for Bulger took many months to complete due to confusion among staff about the transfer process and conflicting guidance by senior BOP medical officials regarding the appropriate medical care level for Bulger.

²⁰ As discussed earlier in this report, a SHU is a housing unit where inmates are securely separated from the general inmate population, and inmates may be placed in the SHU for various reasons, including disciplinary reasons or for the inmate’s protection.

A. Coleman's April 4 Request to Transfer Bulger to a Different Medical Care Level 3 Facility is Denied by BOP Regional Medical Director Due to Belief that Bulger Should be Classified as Medical Care Level 2

On April 4, 2018, Bulger's Coleman PCP prepared a request to transfer Bulger through the medical designation process to a new medical care level 3 facility (Form 770 or April 2018 Medical Transfer Request). The April 2018 Medical Transfer Request was approved by the Coleman Clinical Director and the Coleman Warden Charles Lockett on April 9, 2018. Although Coleman used a medical transfer request, the request stated that the "Requested Principal Reason for Referral" was "Custodial/Programs," and under the heading "Comment for Reason," the form stated:

For custody reason, inmate Bulger poses a threat to a staff member. SIS conducted an investigation and determined that he threatens the safety and security of the institution and the safety of the staff member. Inmate Bulger needs to be transferred [sic] to another facility that will meet his medical and programming needs.

The request described Bulger as an "88 year old in [a] wheelchair for long distance mobility" who had "severe aortic stenosis" but "refuse[d] any intervention." The request also stated, "Inmate has not recently been hospitalized," and "I have ensured the inmate's current clinical encounter notes reflect the inmate's current treatment plan." At that point in time, Bulger's last hospitalization was in late February 2018, a little over a month prior to the April 2018 Medical Transfer Request. The form noted Bulger's Security status (High) and custody status (IN), but did not identify his CIM designations or note that he had WITSEC or other separates.

BOP employees told the OIG that the use of a medical transfer request was proper, even if the transfer was for a nonmedical reason such as a disciplinary event, because BOP guidelines required the use of the medical designation process for all inmates with chronic or acute medical needs, including all medical care level 3 or 4 inmates transferring to a new facility of any care level.²¹ However, the BOP Medical Director told us that Coleman staff should have assessed whether Bulger was classified at the proper medical care level before submitting his transfer request.

The Coleman Clinical Director told the OIG that he did not know who Bulger was when he received the April 2018 Medical Transfer Request for his review and approval. The Coleman Clinical Director, who was solely responsible for reviewing the transfer request from a medical, not a security, perspective, said that he reviewed the "narrative summary" on the April 2018 Medical Transfer Request, ensured that what was in the narrative was "enough to comply with...policy" and "justify the transfer," approved the request, and sent it up the chain. The Coleman Clinical Director further said that he did not review Bulger's medical records or medically examine Bulger before he approved the April 2018 Medical Transfer Request, because he trusted his staff.

On April 9, 2018, Coleman submitted the April 2018 Medical Transfer Request to OMDT. The same day, OMDT forwarded the request to the Southeast Regional Medical Director.²² The Southeast Regional Medical Director told the OIG that when he received the request, consistent with his standard practice, he

²¹ These guidelines are discussed in Chapter 2, Part III.B.2.

²² The Southeast Regional Medical Director told the OIG that he was the BOP's Southeast Regional Medical Director from 2016 through the date of his OIG interview on August 20, 2019.

reviewed Bulger's medical file to determine why Bulger was classified as a medical care level 3 inmate. The Southeast Regional Medical Director stated that based on this review he learned that Bulger previously received anticoagulation therapy, which would automatically require him to be classified as a medical care level 3 inmate, but that Bulger had not received anticoagulation therapy in 2 or 3 years. The Southeast Regional Medical Director told the OIG that he did not speak with the Coleman PCP about Bulger. However, he stated that he reviewed Bulger's entire electronic medical file to determine if there was another reason to classify Bulger as a medical care level 3 inmate, and he did not find one. The Southeast Regional Medical Director, therefore, wrote in response to Coleman's transfer request: "With the clinical information submitted and review of this patient's chart there is no reason as [sic] to classify him as a care level 3. Please review and submit more clinical information that would classify this patient as a care level 3." The Southeast Regional Medical Director told us that he did not receive a response to his request for additional information from Coleman and, thus, his involvement in Bulger's transfer ended after his response to the transfer request.

The OIG questioned the Southeast Regional Medical Director about why lowering Bulger's care level was appropriate, when Bulger still suffered from the underlying medical condition and was not receiving anticoagulation therapy only because he refused such treatment. The Southeast Regional Medical Director explained that anticoagulation therapy requires a medical care level 3 classification because of the procedures that must accompany it, including regular blood tests, and due to the risk of bleeding. He further explained, "So, if you're not taking that medication, you're not going to have those [procedures]." In addition, the Southeast Regional Medical Director told the OIG that although Bulger suffered from chronic medical conditions, those conditions appeared to be stable. When the OIG asked the Southeast Regional Medical Director how Bulger could be considered stable when he frequently came to the Health Services Department complaining of chest pain, had abnormal EKGs, and was treated with nitroglycerine, the Southeast Regional Medical Director responded: "It depends on how you see it, but an EKG—abnormal EKG—could be there forever.... [H]aving an abnormal EKG really doesn't say anything because it can stay there for life."

The OMDT Designator who handled Bulger's transfer (OMDT Designator) told the OIG that based on the Southeast Regional Medical Director's recommendation, she denied the April 2018 Medical Transfer Request on April 10, 2018.²³ The email notifying Coleman staff of this denial stated:

We have received the medical transfer request due to custodial reasons for the above named inmate. your [sic] request has been disapproved by the South East Regional Medical Director because [Bulger] does not currently meet Care Level Three criteria. If you feel he is a Care Level Three please review and re-submit your request with more clinical information to support his care Level Three status.

Following OMDT's denial, on April 13, 2018, the Coleman Clinical Director documented in Bulger's medical records that Bulger was now classified as a medical care level 2 inmate. The Coleman Clinical Director told the OIG he changed Bulger's medical care level because he was following the "chain of command," and he did not review Bulger's medical records before making the change.

²³ The OMDT Designator told the OIG that she was a registered nurse. In addition, the OMDT Designator stated that she was generally aware of who Bulger was through watching "crime shows."

B. Coleman's April 30 Non-Medical Transfer Request to Transfer Bulger to a Care Level 2 Facility Based on the Threat Incident is Denied Due to Use of Incorrect Form Sent to Wrong BOP Office

On April 30, 2018, due to the denial of the April 2018 Medical Transfer Request, Coleman staff completed a "Form 409" to effectuate a "Close Supervision" transfer (Close Supervision Transfer Request), which is a transfer request based on "an investigation that indicates a safety, security, or escape risk." The Close Supervision Transfer Request was prepared and signed by Bulger's Coleman Case Manager, signed by Bulger's Coleman Unit Manager, and captioned from Warden Lockett to DSCC/Classifications.

The Close Supervision Transfer Request stated that Bulger was a medical care level 2 inmate being transferred because he had recently threatened a staff member; provided a brief description of the threat to the staff member and stated about Bulger: "Due to his criminal history, he is clearly able to carry out these threats"; stated that SIS recommended the transfer and Bulger's Unit Team concurred; noted Bulger's CIM assignments of Separation and Broad Publicity, Security Threat Group assignments of Extensive Media and Posted Picture Card File, and "Public Safety Factors of Greatest Severity and Sentence Length"; and requested that "the DSCC review him for transfer to any appropriate high security level facility." Attached to the Close Supervision Transfer Request were the Incident Report, SIS "Inmate Investigative Report," and DHO report from the February 23, 2018 incident.

On May 14, 2018, the DSCC denied the Close Supervision Transfer Request and advised Coleman to instead submit a medical transfer request to OMDT. The DSCC Chief told us that, although Bulger had been lowered to medical care level 2 prior to the Close Supervision Transfer Request and the transfer request stated that the transfer was due to Bulger's recent threat incident, Bulger's designation had to be handled by OMDT because OMDT had previously designated Bulger to Coleman as a care level 3 and Bulger was now being redesignated at a lower care level.

C. Coleman's June 23 Medical Request to Transfer Bulger to Care Level 2 Facility is Denied Due to BOP's Chief of Health Programs's Opinion that Bulger Should Remain Classified as Medical Care Level 3

On June 6, 2018, Coleman staff submitted to OMDT a "Medical/Surgical and Psychiatric Treatment Completed Referral Request" (Form 413 or Medical Treatment Completed Transfer Request) to transfer Bulger as a medical care level 2 inmate. The request stated: "Patient was previously prescribed Coumadin [anticoagulation therapy] which indicates care level 3 care. Patient refused medication and all testing on 3/2015. Care level 3 not indicate [sic].... Patient not pending any specialty consult and has been stable."

The OMDT Designator stated that upon receiving the Medical Treatment Completed Transfer Request, she was responsible for ensuring that Bulger was ready to be transferred to a medical care level 2 facility. She stated that when she reviewed Bulger's paperwork, she saw that he had a "complex cardiac history" and had been "to the hospital several times," and she "questioned whether or not he was really ready to be a care level 2." The OMDT Designator stated that she did not confer with Bulger's Coleman PCP and that she does not typically confer with inmates' doctors at their sending institution. Instead, on July 20, 2018, the OMDT Designator emailed the transfer request to the BOP Chief of Health Programs (CHP) and sought his guidance on whether Bulger should be designated as medical care level 2 or 3. The OMDT Designator told the OIG that when she is making medical assessments, she most often confers with the CHP. In addition, the BOP Medical Director told the OIG that while Form 770 medical transfer requests are

typically reviewed by Regional Medical Directors, Form 413 medical treatment completed transfer requests are typically reviewed by the CHP.

On July 24, 2018, the CHP responded to the OMDT Designator that Bulger's "continued refusal [of medical treatment] does not change his care level designation. He remains a [medical care level] 3 and for medical, as well as medical-legal reasons, he should be confined in a [medical care level] 3 (or [medical care level] 4) institution." The CHP told the OIG that he did not remember his involvement in Bulger's redesignation because, as a matter of practice, he does not look at inmate names when he makes care level recommendations. He explained that he follows this practice because he does not want inmate identities to impact his medical decisions. In addition, the CHP told the OIG that he did not recall discussing Bulger with OMDT, the Southeast Regional Medical Director, the Coleman Clinical Director, or Bulger's Coleman PCP. The CHP also told us that he frequently reviews only the materials provided with the transfer request rather than the inmate's full medical record.

The CHP explained to the OIG his assessment that Bulger should remain a medical care level 3 inmate. He stated that there were several other occasions when he recommended that an inmate's care level not be lowered because the inmate refused treatment. He explained that discontinuing anticoagulation therapy does not "eradicate" a diagnosis of atrial fibrillation and in fact makes an inmate "more of a risk for medical problems." As noted previously, in 6 consecutive months in 2018 (from May to October), Bulger experienced cardiac or pulmonary incidents, and five of those six incidents resulted in an abnormal EKG; treatment with oxygen, nitroglycerin pills, and sometimes aspirin; and an assessment that Bulger should be taken to a hospital for treatment.

The OIG asked the CHP about the 2014 BOP Medical Care Level Guidelines, which seem to suggest that the default medical care level 3 classification is based not on the atrial fibrillation but on the anticoagulation therapy. The CHP responded that the Medical Care Level Guidelines are "guidance, not locked-in rules." Both the CHP and the OMDT Designator told the OIG that it would be wasteful to send an inmate to a medical care level 2 facility, only to realize shortly thereafter that the facility was not able to manage the inmate's care or that the inmate changed his mind about complying with treatment. The OMDT Designator explained: "[U]ltimately, if he gets someplace and he is not really a 2, then what you're going to get is more work."

On August 8, 2018, based on the CHP's recommendation, the OMDT Designator sent an email to Coleman staff stating: "We have received the medical treatment complete transfer request for [Bulger]. Your request has been disapproved by...Chief of Health Programs, HSD because refusing treatment does not change his Care Level. Therefore, he is a Care Level Three. Please resubmit a 770 [medical transfer request to a medical care level 3 facility]." The OMDT Designator acknowledged that perhaps she should have looked at the original April 2018 Medical Transfer Request more closely, and stated that she "apologized profusely" when she told Coleman staff to submit a new one.

We asked the Southeast Regional Medical Director if he was aware of the CHP's recommendation, and the Southeast Regional Medical Director stated that he was not. He further stated that if he had been aware at the time, he would have called the CHP to ask him why he thought Bulger should be classified as medical care level 3. The BOP Medical Director told the OIG that it would have been helpful for the CHP to contact the Southeast Regional Medical Director to discuss their difference of opinion; however, he stated that the CHP might not have known about the Southeast Regional Medical Director's assessment due to the earlier confusion over the proper paperwork.

D. Coleman Does Not Follow the CHP's Guidance and Instead Unsuccessfully Seeks Clarity in August Regarding the Conflicting Guidance About Bulger's Medical Care Level and Transfer

Coleman staff did not follow OMDT's direction, based on the CHP's guidance, to resubmit a medical transfer request to transfer Bulger to a medical care level 3 facility. Instead, later on August 8, 2018, the Coleman Deputy CMC responded to the OMDT Designator's August 8, 2018 email to seek further guidance:²⁴

Be advised inmate Bulger was submitted via 770 and was denied on 04-10-2018.... We reviewed him, based on the 4/10/18 denial, determined he wasn't appropriate for the Care 3 assignment and his assignment is now Care 2. We then submitted him for a 323 close supervision transfer on 05/1/18, which was denied pending submittal of the 413 form. This was submitted on 06/26/18 and now again denied a 323 transfer (should be 323) on 08/8/18. Now we are being told to submit him again for a 770?

There has been some confusion and a lot of back and forth trying to designate this inmate, but he has threatened our staff and due to his age, we can no longer continue to house him in Special Housing Unit.

Please advise us of how to transfer this inmate to a facility where he can program in general population.

The Coleman Deputy CMC told the OIG that she did not receive a response to this email.

Bulger's Coleman PCP and the Coleman AHSA stated that they were uncertain how to handle the differing medical opinions and direction they had received. The Coleman AHSA further stated that she was concerned about the delay with Bulger's transfer, because "you don't want to leave anybody in the SHU that long." Similarly, the Coleman PCP told the OIG that the Coleman AHSA told him that she felt "bad" about Bulger being in the SHU for so long.

On August 14, 2018, the Coleman AHSA sent an email to the Southeast Regional Medical Director, copying the Coleman Clinical Director and Bulger's Coleman PCP, seeking guidance. In the email, the Coleman AHSA wrote:

I am reaching out for some guidance regarding an inmate at [Coleman] USP 2 who has been in SHU [sic] for extended period of time and having difficulty with trying to get him transferred [sic].... Now at this point, Unit team, case management coordinator and health services do not know where to go from here."

The Coleman AHSA stated that the recipients of her email were at a conference together at the time she sent the email and, thus, she had hoped that they would confer with one another regarding Bulger's care in response to her email. However, she stated that she did not receive a response to her email, and the only response we found was an automatic out-of-office reply from the Southeast Regional Medical Director.

²⁴ The Coleman Deputy CMC told the OIG that her duties included communicating with DSCC or OMDT when a transfer is delayed and an inmate is in the SHU for an extended period.

Both the PCP and the AHSa told us that they agreed with the Southeast Regional Medical Director's decision in April that Bulger should be classified as a medical care level 2 inmate because, in their view, Bulger was medically stable, he was taking only "routine medication," and his chest pain was typically induced by situational anxiety. The Coleman AHSa further described the decisions by medical staff to send Bulger to the hospital as "us being cautious, because of who he was." The Coleman PCP stated that "every time they would gas somebody" (i.e., use oleoresin capsicum (OC) or "pepper spray" to control an inmate) in the SHU, Bulger would "get short of breath and...say he had chest pain." The PCP further stated that it was common for inmates to come into the Health Services Department complaining of chest pain, and that inmates knew that making such a complaint would "get [them] some time out of the SHU." In addition, the Coleman PCP stated that each time Bulger was seen in the Health Services Unit and refused hospitalization, his symptoms ultimately resolved with "a little oxygen."

However, between the Southeast Regional Medical Director's recommendation in April and the CHP's decision on August 8, Bulger had three more cardiac incidents—on May 7, June 28, and July 10—and in each instance Bulger reportedly had an abnormal EKG; was treated with oxygen, nitroglycerin pills, and sometimes aspirin; and was assessed as requiring hospital treatment. Further, just 1 week later, on August 16, Bulger had another incident in which he sought medical treatment, this time for shortness of breath. The Coleman PCP was aware of Bulger's continuing treatment for heart and other problems after the Southeast Regional Medical Director's recommendation. Indeed, the Coleman PCP was the medical practitioner who reviewed Bulger's EKG, recommended that Bulger go to the emergency room, and cosigned the medical paperwork on June 28, and the Coleman PCP also was the medical practitioner who treated Bulger on August 16. Nonetheless, the Coleman PCP said that those incidents did not change his view of Bulger's care level, because he did not believe "any deterioration or instability occurred." The Coleman PCP told the OIG that Bulger's EKG was "always going to be abnormal" due to Bulger's atrial fibrillation; that treating Bulger with nitroglycerin, oxygen, and aspirin was "standard"; and that there was nothing more Coleman could do to treat Bulger given that he was either refusing hospitalization or refusing heart catheterization when he was hospitalized.

Despite Bulger's multiple recent medical encounters and OMDT's direction, based on the CHP's guidance, to transfer Bulger as a medical care level 3 inmate, the Coleman PCP told us that he asked his supervisor, the Coleman Clinical Director, over the telephone what he should do and that the Coleman Clinical Director responded, "Clearly, he's off the Coumadin [anticoagulation therapy], make him a Level 2." The Coleman PCP said that he followed the Coleman Clinical Director's direction, because the Coleman Clinical Director was his superior.

However, the Coleman Clinical Director told the OIG that he did not recall discussing Bulger's medical care level with the PCP, the Southeast Regional Medical Director, or the CHP, and the OIG did not identify any written documentation of the guidance the Coleman PCP told us the Coleman Clinical Director provided. Moreover, when the OIG asked the Coleman Clinical Director for his opinion regarding Bulger's care level, he stated that he agreed with the CHP that Bulger should have been classified as medical care level 3. The Coleman Clinical Director further stated that Bulger was a "ticking bomb, clinically speaking, because of his cardiac issues" and was "an extremely fragile patient because of his age and all of his chronic medical problems." However, the Coleman Clinical Director also stated that he considered Bulger to be stable because he did not die from a cardiac complication or have an "acute heart attack," and that use of a wheelchair does not make an inmate a care level 3. The Coleman Clinical Director told the OIG that the BOP Medical Care Level guidelines were subject to interpretation and that he was overruled "all the time."

We found no evidence that anyone at Coleman spoke with the CHP following his conclusion in August that Bulger should remain at medical designation level 3.

E. Coleman's September 6 Medical Request to Transfer Bulger to a Medical Care Level 2 Facility is Approved by BOP's Medical Director

On September 6, 2018, the Coleman AHSA completed a new "Medical/Surgical and Psychiatric Treatment Completed Referral Request" (Second Medical Treatment Completed Transfer Request) to transfer Bulger as a medical care level 2 inmate. The Coleman PCP told the OIG that Coleman staff completed this request based on the Coleman Clinical Director's guidance. The Second Medical Treatment Completed Transfer Request stated under the heading "Discharge Diagnosis and Summary":

89 [year-old] white male with history of hypertension, peripheal [sic] vascular disease, aortoic [sic] valve disorder, atrial fibrillation, hip and joint pain and hypercholesterolemia. Patient was previously prescribed Coumadin for atrial fibrillation, causing care level 3 status. A-fib resolved 12/4/2013 and anticoagulation discontinued [sic] 3/19/2015 without any complications. Care leve [sic] 3 no longer indicated due to resolved anticoagulation therapy. Patient stable and no longer has any additional follow ups.

While the request cited the results of the medical assessment on December 4, 2013, it failed to reference the subsequent EKGs or assessments in 2015, 2016, and 2017 that indicated Bulger was still suffering from atrial fibrillation. Further, although the September 6 submission asserted that Bulger was "stable" and "no longer has any additional follow ups," Bulger sought medical care for cardiac issues or shortness of breath in each of the 4 preceding months, and three of those incidents resulted in a determination that hospital treatment was necessary to address cardiac concerns. The AHSA did not acknowledge these events in the transfer request form, nor did she acknowledge the fact that the CHP, a doctor in the BOP's Central Office, had recently advised Coleman, through OMDT, that Bulger was a medical care level 3 inmate.

On September 14, 2018, Bulger's Coleman PCP signed a transfer summary supporting the Second Medical Treatment Completed Transfer Request. Under the heading, "Clinical Course," he wrote:

89 year old male inmate in five chronic care clinics for Cardiac, Endocrine, gastrointestinal, hypertension, orthopedic and general. Main health problems are hypertension, peripheral vascular disease, aortic valve disorder, and hypercholesterolemia. Patient arrived to institution as a care level 3 for anticoagulation Warfarin therapy for atrial fibrillation. Atrial fibrillation had resolved in 12/4/2013 and over the course of years 2013 to 2015 patient's Warfarin therapy was monitored and slowly decreased after the resolution of the atrial fibrillation condition and was ultimately discontinued on 3/19/2015. Patient has remained off of anticoagulation therapy since 3/19/2015 without any complications. Based on patient's health problems and that he is no longer on anti-coagulation therapy patient is considered a care level 2 inmate. Last hospitalization was 2/23/2018 without any additional specialty procedures or treatment recommended after discharge.

As indicated above, the Coleman PCP repeated in the transfer summary the statement that Bulger's atrial fibrillation had "resolved" on December 4, 2013, without referencing the subsequent EKGs or assessments in 2015, 2016, and 2017 that indicated Bulger was still suffering from atrial fibrillation. In addition, the PCP did not mention that Bulger had received medical care for chest pains or shortness of breath once each month during the 4 months preceding the transfer request and on three of these occasions was reported to

have had an abnormal EKG and was determined by Coleman's medical staff to require hospital treatment, which Bulger declined. Similar to the AHSA in the transfer request form, the PCP also did not mention in the transfer summary the fact that the CHP had recently advised Coleman, through OMDT, that Bulger was a medical care level 3 inmate.

On September 17, 2018, the Coleman Deputy CMC emailed OMDT stating, "We have thoroughly reviewed inmate Bulger and he is not appropriate for a Care Level 3 medical assignment." The Coleman Deputy CMC attached to this email the Second Medical Treatment Completed Transfer Request; the September 14, 2018 transfer summary; and the previous Close Supervision Transfer Request. Just 2 days after this email, on September 19, 2018, Bulger was transported to Leesburg hospital after complaining of chest pain.

The Coleman Deputy CMC told the OIG that she did not receive a response to her September 17 email. On October 1, 2018, she sent a follow-up email to OMDT. The Deputy CMC stated that she again received no response, but that she eventually told the OMDT Designator by phone:

We sent everything that was asked for, he's not a care-3, can we get him designated? He's sitting in the SHU, he's elderly, we don't want something to happen to him, he's already had some illnesses. We don't basically [want] the inmate to die in the SHU.... He's a broad publicity case. He's been sitting in SHU for a while. What is the problem? Let's get the inmate transferred.

On September 24, 2018, the Coleman Deputy CMC emailed a Coleman Associate Warden: "I need your help.... I have re-submitted [Bulger's] transfer on last Monday 9-17-2018 and as of today I have not received a response. Can you please assist me in getting this inmate transferred?" The OMDT Designator told the OIG that the Associate Warden contacted her in or about October 2018 and said something to the effect of, "[W]e need to get this guy moved." She said the Associate Warden was "trying to get to the bottom of why" Bulger had not yet been moved.

On September 27, 2018, Bulger underwent a Psychology Services Suicide Risk Assessment in the SHU, after his case manager reported that during SHU rounds Bulger stated that he had "lost the will to live." According to the report of the Suicide Risk Assessment, Bulger "proclaimed that he had lost the will to live" and "proceeded to discuss the fact he is 89 years old and has been housed in [the] SHU for 7 months." Bulger further stated: "I have no quality of life. My health is gone. I get chest pains when I eat. Chest pains when I lay down. I feel lethargic all the time. I have memory problems. I'm deteriorating."

On October 3, 2018, at 1:28 p.m., the Coleman AHSA emailed the Coleman Clinical Director and the Southeast Regional Medical Director, copying a Coleman Associate Warden and a Coleman Associate Warden:

I'm emailing you to give you a heads up, regarding inmate Bulger..., who needs to be transferred. He arrived here as a care level 3 inmate due to being on anti-coagulation therapy. The medication was stopped back in 2015 and he has not been placed back on. Since the discontinuation of the medication his care level change did not occur to drop his care level down to a 2. So when a 770 was submitted on the care level 3 status he was denied due to he no longer meets the care level 3 status. His care level was then decreased to the 2 as informed by the 770. The Unit Team and CMC therefore put him in for a 323 transfer as a care level 2 inmate and that was also denied saying he is a care level 3 inmate.

The AW has become involved and called medical designation regarding why he is care level 2 and not a 3 and there [sic] were going to review again by speaking to [the BOP Medical Director] regarding his care level status for him to be transferred. I'm reaching out to you to request for you to review and perhaps speak to designation regarding his care level status to determine how to transfer him, since he has been in SHU for almost 8 months.

The Coleman AHSA's email did not mention Bulger's numerous cardiac incidents, including six hospital admissions, following the discontinuation of anticoagulation therapy in 2015, nor did the email mention that it was the CHP, a supervisory medical official in BOP's Central Office, who had directed that the appropriate care level for Bulger was 3. The Coleman Clinical Director wrote back at 2:38 p.m.: "I will review his medical records and contact OMDT." At 3:26 p.m., the Associate Warden wrote back:

Thanks Doc. We did speak with Medical Designations today and I emphasized the importance of this case. He's a high profile inmate that is 89 years old and he has been in SHU since February 23, 2018. He threatened a staff member and due to staff shortages, this staff member...is issuing him medication. That is not proper prison management. We have to transfer this inmate soon. Please keep me and [the Assistant Warden] abreast. Thanks.

However, earlier in the day on October 3, 2018, at 11:00 a.m., the OMDT Designator had emailed the Second Medical Treatment Completed Transfer Request to the BOP Medical Director and wrote: "There has been some disagreement on this inmates [sic] Care Level 2 versus 3. Please review and advise, thanks."²⁵ At 3:43 p.m. that same day, the BOP Medical Director wrote back:

In follow up to our conversation, it is my understanding that anticoagulation is not medically indicated because his atrial fibrillation has resolved. He has aortic stenosis for which valve replacement surgery was recommended but which he refused. Assuming no other clinical condition affecting his care level, his care level would be determined by his function and frequency of health care interventions. As I understand it, he is independent with ADLs [activities of daily living], so he would be a Care 2, consistent with the RMDs assessment, and the 413 is appropriate.

The BOP Medical Director told the OIG that he reviewed Bulger's medical records and came to the same conclusion as the Southeast Regional Medical Director that Bulger was a medical care level 2 inmate, because Bulger had not been treated with Warfarin in over 3 years. In reaching his conclusion, the BOP Medical Director stated that he did not speak with the Coleman PCP, he did not recall speaking with the Southeast Regional Medical Director, and he was not certain whether he was aware of the CHP's assessment at the time of his assessment. The BOP Medical Director told the OIG that he based his opinion on the facts that "there was no current clinical indication for Warfarin anticoagulation, his medical condition was described as stable, and he was able to perform his activities of daily living independently." Specifically, the BOP Medical Director stated:

I reviewed his record and came to the same conclusion that [the Southeast Regional Medical Director] had that, in fact, he's not been on Warfarin for, what, going on three and a half years now.... He's had no atrial fibrillation that I could find, anywhere, documented in the medical record. And so, I concluded that clinically Warfarin was not indicated, and

²⁵ The BOP Medical Director was also the Acting Chief of Health Programs at this time because the former CHP was no longer in that position.

therefore, he didn't meet Care 3 criteria as a result of that. And made the recommendation that he be classified as a care 2, and approved the [transfer request].

We noted, however, as discussed earlier in this report, that Bulger's BOP records state that on December 25, 2015—less than a year after Bulger's anticoagulation therapy was discontinued—Bulger was transported to Leesburg Hospital due to "ATRIAL FIB, W/UNCONTROLLED VENTRICULAR RATE." In addition, Bulger's BOP medical records include EKGs and other hospital paperwork from both February 2016 and April 2017 stating that Bulger was suffering from "atrial fibrillation with rapid mean ventricular response" at those times. Further, the BOP medical records showed that Bulger had received medical treatment for 13 additional cardiac or pulmonary incidents between the April 2017 discharge summary and the BOP Medical Director's October 2018 decision, including 5 incidents between the Southeast Regional Medical Director's April 2018 recommendation and the BOP Medical Director's October 2018 decision; and in 4 of those 5 instances, the records showed that Bulger had an abnormal EKG and was recommended for or received hospital treatment.

The BOP Medical Director further stated that he considered Bulger's other medical conditions, but those conditions did not automatically default to a particular care level. The BOP Medical Director told the OIG that conditions that do not automatically default to a particular care level may lead to an increase in care level, if those conditions become unstable in that they impact normal daily functions. The BOP Medical Director did not recall at the time of his OIG interview how often Bulger was receiving treatment. However, he stated that his understanding was that Bulger was "stable and could be managed as an outpatient, with outpatient visits every one to six months," and, therefore, he should be classified as medical care level 2. In addition, the BOP Medical Director stated that the BOP's Medical Care Level Guidelines were not a "perfect system," it was impossible to "distill every clinical situation" into the BOP's guidance, and inmates were often misclassified.²⁶

The BOP Medical Director told us that his assessment was the "final determination" and, thus, the Second Medical Treatment Completed Transfer Request for Bulger to be transferred as a medical care level 2 inmate was approved. The OMDT Designator told the OIG that she did not question the BOP Medical Director's decision. She explained, "I don't have a dog in the fight.... We're just trying to do a good job and put people where they need to be to have their needs met."

²⁶ After reviewing a draft of this report, the BOP Medical Director wrote in a response to the OIG: "It was the medical director's understanding at the time that Option 1, transfer to another high security care level 3 facility, was not available because of separatee or other security issues, to the best of his recollection. The only remaining viable option then was sending him to a Care Level 2 high security facility that could meet his medical and correctional needs, either as a Care Level 3 or Care Level 2 inmate." The Medical Director's understanding, however, is inconsistent with the factual record, because the OMDT Designator had not yet identified possible institutions for Bulger's redesignation at the time she sought the BOP Medical Director's opinion. Moreover, as described in the next chapter, two of the options the OMDT Designator later identified for Bulger's possible placement were high security, medical care level 3 facilities. The OMDT Designator told the OIG she did not list either medical care level 3 facility as her preference, because her "thought process would have been..., if we're saying he's no longer Care Level [3], then we shouldn't send him to a Care Level [3] facility."

Chapter 5: Factual Findings Related to the Selection of Hazelton and Security Considerations in Connection with Bulger's Transfer

I. Selection of Hazelton

A. The OMDT Designator Creates a List of Possible Institutions and Recommends Hazelton as the First Choice for Bulger's Designation

The OMDT Designator was responsible for recommending potential receiving institutions once the final decision was made to transfer Bulger as a medical care level 2 inmate. The OMDT Designator told the OIG that high security institutions with medical care level 2 capability were limited. In addition, she stated that before placing inmates at institutions, she consults a BOP document called the Daily Inmate Population Report (DIPR), which identifies institutions that are available for inmate placement based on space availability and other limitations. According to the OMDT Designator, there are certain institutions that are identified on the DIPR as "do not use" at any given time.

The OMDT Designator told the OIG that she considered a number of factors in generating the list of institutions, including the security level of each facility; the medical care level of each facility; the proximity to Bulger's home; and space availability and other limitations as identified by the institutions. The OMDT Designator said that she considered Boston to be Bulger's home, even though he had been a fugitive in California for over 16 years immediately before his arrest. The OMDT Designator further said that Bulger's age and the fact that he used a wheelchair did not impact the selection of potential institutions for his designation, because the BOP houses elderly inmates and inmates in wheelchairs in "line institutions." Based on these factors, the OMDT Designator created the following list:

- Hazelton;
- Administrative U.S. Penitentiary (AUSP) Thomson in Thomson, Illinois (Thomson);
- USP Terre Haute, in Vigo County, Indiana (Terre Haute);
- USP Victorville, in Victorville, California (Victorville).

The OMDT Designator stated that Hazelton was her preference when looking at Bulger's "case as a whole," because it was geographically close to Bulger's family in Boston, it was a medical care level 2 facility, and it "took good care of the inmates." The OMDT designator said that the high security facilities at Terre Haute and Victorville were classified as medical care level 3 and, while medical care level 2 inmates can be placed at medical care level 3 facilities, her "thought process would have been..., if we're saying he's no longer Care Level [3], then we shouldn't send him to a Care Level [3] facility." The OMDT Designator said

that she kept the care level 3 institutions on the list as options for the approving official to consider, but recommended Hazelton as the most appropriate.²⁷

The OIG reviewed the DIPR that the OMDT Designator received and found that the BOP had nine other high-security, medical care level 2 facilities besides Hazelton and Coleman at the time of Bulger's transfer and that several of them appeared to be generally available for placement. The OIG noted during the OMDT Designator's interview the availability of other high security, medical care level 2 facilities. The OMDT Designator did not recall the limitations identified in the DIPR or how she specifically arrived at the list of four institutions identified above. However, the OMDT Designator noted that she may have been focused on geographic location and "trying to put [Bulger] close to where his family could visit." In addition, she said that she may have ruled some facilities out based on her "thoughts about the medical care" and her "sense of them and how they took care of patients." The OMDT Designator stated that she did not keep a written record of her reasons for excluding particular institutions from the list she generated.

The OMDT Designator told the OIG that she believed that Hazelton was a good choice, because of its proximity to Boston and because, based on the medical transfer paperwork she had received from Hazelton in the past, Hazelton "seemed to be on the ball with...providing medical care to their inmates." In addition, she noted that Hazelton was within about a 30-minute drive to a regional medical center. According to an OIG internet search, the closest regional medical center to Hazelton is approximately 30 miles away.

B. The OMDT Designator Receives WITSEC and CIM Clearance for Hazelton

BOP policy required the OMDT Designator to obtain clearance for the institutions she selected from the Central Office Inmate Monitoring Section (IMS), due to the fact that Bulger had WITSEC Separatees. On October 3, 2018, at 2:28 p.m., the OMDT Designator emailed the list of potential institutions (Hazelton, Thomson, Terre Haute, and Victorville) to the IMS for clearance. An official within the IMS wrote back on October 3, 2018, at 2:37 p.m.: "No concerns with any of the selections."

The OMDT Designator also had to obtain clearance of the institutions she selected from both DSCC and a supervisory official within the BOP's Central Office, due to Bulger's CIM classifications of Broad Publicity and Separation. On October 4, 2018, at 1:17 p.m., the OMDT Designator emailed the list of institutions to the Operations Manager over the DSCC designators (Operations Manager) for review. In the October 4 email, the OMDT Designator provided basic information about Bulger, including: he was serving a life sentence; he was classified as Broad Publicity and Extensive Media; he had WITSEC separatees; his security level and custody level (High/In); his medical care level of 2; his mental health care level of 1; his current facility (Coleman); and summaries of the offense that led to his incarceration and his criminal, medical, and mental health history. The offense summary referred to Bulger as a "Boston mobster" who participated in a "violent criminal enterprise operating in the Boston area" and referenced his membership in the Winter Hill Gang. The medical history stated that Bulger had a history of "atrial fibrillation which has resolved," apparently relying on the transfer paperwork and without mentioning Bulger's more recent

²⁷ The OMDT Designator also told the OIG that she could not remember why Thomson was on the list because it is currently a medical care level 1 facility. However, based on the OIG's review of the DIPR, Thomson was a medical care level 2 facility at the time of Bulger's transfer, and has since been lowered to medical care level 1.

cardiac history.²⁸ Under the heading “Recommended Facilities,” the OMDT Designator wrote: “I would like to transfer him to [Hazelton]; however, he has been cleared by CPD [which we understood to be a reference to the IMS clearance for concerns related to WITSEC separatees] for [Thomson, Terre Haute, and Victorville] are also options [sic].”

The Operations Manager, who was also the DSCC Acting Section Chief on the date DSCC received Bulger’s transfer packet from OMDT, told the OIG that he was not familiar with Bulger when he received the transfer packet from the OMDT Designator, that he “see[s] cases similar to” Bulger’s case “all the time,” and that he viewed Bulger at the time as “just another old gangster.” The Operations Manager stated that he did not “have any issues” with any of the four facilities the OMDT Designator recommended for Bulger’s transfer.²⁹ He explained that his focus was Bulger’s Separation classification, and he ensured the four proposed facilities did not house any of Bulger’s separatees. In addition, the Operations Manager said that he did not view Bulger as a cooperator, because Bulger had not received a reduced sentence due to his cooperation with law enforcement. Similarly, the DSCC Section Chief told the OIG that, while Bulger’s PSR described Bulger’s relationship with FBI agent John Connolly, the Section Chief’s “take” was: “I don’t believe he was so much a cooperator as he was using John Connolly to get information to go after his enemies.”

The Operations Manager said he had no concerns with sending Bulger to Hazelton. Accordingly, on October 5, 2018, at 11:56 a.m., the Operations Manager forwarded the OMDT Designator’s email to the Senior Deputy Assistant Director of CPD (Senior DAD) and wrote: “I concur with the recommendation by medical for [Hazelton].”

The Senior DAD told the OIG that as Senior Deputy Assistant Director of CPD he reviewed all designations for Broad Publicity inmates. The Senior DAD said that 99.9% of the time, he concurred with the designator’s recommendation. The Senior DAD stated that when he received the list of possible institutions for Bulger’s transfer, he reviewed the redesignation materials provided by OMDT and Bulger’s records in Sentry. The Senior DAD said that OMDT’s list was narrowed down to Hazelton and Victorville, and that the only difference between Hazelton and Victorville from his perspective was that OMDT preferred Hazelton because of its geographic proximity to outside medical care. The Senior DAD said that the OMDT’s list was narrowed down to Hazelton and Victorville, because Thomson “hadn’t opened yet” and Bulger had a separatee at Terre Haute. However, the OMDT Designator told the OIG that according to OMDT’s records Bulger did not have a separatee located at Terre Haute at the time of Bulger’s designation, which is consistent with the approval of the four institutions by IMS and the Operations Manager as described above. In addition, the OMDT Designator stated that, because Thomson was listed on the DIPR as an option, she believed it was open at the time of Bulger’s designation and therefore included it as an option.

The Senior DAD stated that neither Bulger’s age nor the fact that he used a wheelchair were factors in the selection of an institution, because there were other inmates who were older than Bulger and in wheelchairs at Hazelton. The Senior DAD told the OIG that he did not consider any institutions other than

²⁸ As discussed earlier in this report, the statement that Bulger’s atrial fibrillation had resolved was based on medical records from 2013, and did not take into account BOP records stating that Bulger experienced atrial fibrillation in 2015, 2016, and 2017, and thereafter sought medical care for numerous additional cardiac incidents.

²⁹ After reviewing a draft of this report, the Operations Manager clarified that he knew Bulger could not be transferred to AUSP Thomson because it was “still activating,” that he “did not think sending Bulger back to [USP Terre Haute] was good idea” because Bulger had been assaulted there in 2014, and that his review revealed that “none of Bulger’s associates in his PSR were located at” Hazelton.

the ones that OMDT recommended; however, he noted that USP Allenwood in Pennsylvania—another high security, medical care level 2 facility—was not a good option based on its geographic proximity to Massachusetts. He explained that the BOP tries to move Broad Publicity inmates “away from their sphere of influence.” Thus, on October 5, 2018, at 12:14 p.m., less than 20 minutes after receiving the Operations Manager’s email, the Senior DAD wrote back to the Operations Manager: “I concur with [Hazelton].” Later that day, the Operations Manager forwarded the Senior DAD’s reply to the OMDT Designator.

The OIG asked the Senior DAD whether he had any concerns about moving Bulger from an institution with a reputation for being relatively safe to an institution with a reputation for being dangerous. The Senior DAD responded, “We do it all the time,” because often inmates “get in trouble” and “fail.” The Senior DAD stated that was what happened with Bulger—he “got in trouble” at Coleman and Tucson and therefore had to be moved.

The OIG also asked the Senior DAD about Bulger’s association with the “Irish Mafia” and the fact that there were other inmates at Hazelton who were connected to organized crime. The Senior DAD responded: “We have lots of mafia guys.” He further stated, “There wasn’t anything that precluded [Bulger] from going to Hazelton. Nothing. He had no separation cases there. Wasn’t anything out of the ordinary of why he couldn’t go there versus Victorville.” In addition, the Senior DAD stated that if there was an active Boston mafia member who “was still causing problems, still affiliated, still trying to...do his games, that’s when [the CMC or other staff at the receiving institution] should have caught it if they knew it.” Moreover, the Senior DAD told the OIG that Bulger’s transfer was handled appropriately and consistent with BOP policy. He further stated,

[T]his whole thing is—it just—it’s one of the things that happened. It’s unfortunate but like I said, and I’ll say this to the day that I die, I would—from what I know now and from what I knew at the time, I would have again concurred with pushing Bulger to Hazelton. I would not change anything that I did or what my staff did even knowing what I know now today.

C. OMDT Does Not Refer Bulger’s Redesignation for an Intelligence Assessment by a Senior Intelligence Designator

The OMDT Designator stated that she did not refer Bulger for an intelligence assessment by a Senior Intelligence Designator before his transfer to Hazelton. As discussed in Chapter 2, Part III.C.1., several BOP officials, including the OMDT Designator, told the OIG that while Senior Intelligence Designators were generally available for consultation, BOP practice at the time of Bulger’s transfer was to require consultation with a Senior Intelligence Designator only if the inmate-transferee was a member of an STG. While the BOP’s “Security Threat Group Roster” lists “Organized Crime” and several specific gangs as STGs, it does not list the Winter Hill Gang and Bulger was not identified in Sentry or his transfer paperwork as being a member, leader, associate, or drop-out of Organized Crime. In addition, both the DSCC Section Chief and the OMDT Designator told us that Bulger was not identified in Sentry as a gang-affiliated inmate. BOP officials further told us that designators were not required to consult a Senior Intelligence Designator solely due to an inmate-transferee’s Broad Publicity classification. In addition, the OMDT Designator told us that she did not notice at the time she designated Bulger that he had been a law enforcement cooperator.

The OMDT Designator stated that in hindsight, she probably should have referred Bulger for an intelligence assessment based on his membership in the Winter Hill Gang and his identity as a Broad

Publicity inmate, even though this was not required by BOP policy or practice at the time. She explained: “[M]aybe that was me compartmentalizing and not...bringing the whole picture together.”³⁰

BOP officials told us that there were two Senior Intelligence Designators that conducted intelligence assessments at the time of Bulger’s transfer. We spoke with one of these Senior Intelligence Designators, who stated that he believed that all Broad Publicity inmates should be referred to a Senior Intelligence Designator for an intelligence assessment before transfer. This Senior Intelligence Designator was tasked with reviewing Bulger’s designation to Hazelton following Bulger’s death, and, based on this review, on October 30, 2018, he wrote an email to the DSCC Designations Section Chief, copying the DSCC Chief, which stated:

I reviewed the three investigations on Bulger and see no immediate threat or information that could have predicted the inmate’s death. The inmate did not have an STG assignment that would raise a red flag and have OMDT run the transfer by [intelligence]. The inmate has no [separates at Hazelton] and does not appear to have eve [sic] cooperated. The inmate was stabbed at [Tucson] in 2014, however it appears that innate [sic] was trying to kill him only to get to death row.

The Senior Intelligence Designator told the OIG, however, that he was concerned about whether DSCC was “using all our tools” and that DSCC “internally” needs “to tighten things up a little bit” and add “a little more review when we’re sending guys from” institutions with reputations for being relatively safe with lower gang activity to institutions with reputations for being dangerous. The Senior Intelligence Designator said, though, that he did not know whether this would have made a difference in Bulger’s case.

The OIG asked the DSCC Chief about the Senior Intelligence Designator’s email. He told us that since there was no information in BOP’s databases indicating that Bulger was a gang member or a law enforcement cooperator, there was no reason to believe that Bulger could not be placed at Hazelton. He further stated that the Senior Intelligence Designator’s after-death review of Bulger’s file revealed “nothing after the fact to keep him from going” to Hazelton. In addition, the Senior DAD stated that while Senior Intelligence Designators had specialized knowledge and experience to conduct intelligence assessments of large-scale gangs, Case Management Coordinators and SIS staff at receiving institutions were best equipped to assess security risks for inmates like Bulger based on their institutional knowledge.

D. The OMDT Designator Notifies BOP Employees of Bulger’s Designation to Hazelton

On October 8, 2018, the OMDT Designator sent an email from the mailbox BOP-HSD/Medical Designations to multiple recipients stating that Bulger had completed treatment at Coleman and had been

³⁰ BOP officials told us that since Bulger’s transfer, OMDT designators have received additional training and information to encourage them to contact Senior Intelligence Designators when they have questions or concerns. The OMDT Designator stated that she has received such training. She further stated that through this training she was encouraged to contact DSCC or Intelligence Designators with questions, including questions about whether certain inmates require placement at a facility with a reputation for being safe due to potential threats. However, according to Designation Guidance issued by the BOP on March 8, 2021, and April 6, 2021, there are still no requirements for consultation with a Senior Intelligence Designator before the transfer of a Broad Publicity inmate that is not identified with a “Member, Drop, or Inactive STG assignment.”

redesignated to Hazelton as a medical care level 2 inmate.³¹ The OMDT Designator told the OIG that all OMDT staff—five or six individuals—had access to the BOP-HSD/Medical Designations mailbox. The October 8 email was sent to 10 general BOP mailboxes, such as “CLP/Case Mgmt Coord” and “HAZ/Health Services Appointments,” at least some of which were accessible by multiple individuals.³² The recipients of the email included employees within BOP’s Central Office, Mid-Atlantic Regional Office, Southeast Regional Office, Coleman, and Hazelton. The OMDT Designator attached to the October 8 email the March 2018 incident report, SIS Inmate Investigative Report, and DHO report from the February 23, 2018 incident; the April 30, 2018 Close Supervision Transfer Request; the September 6, 2018 Treatment Completed Transfer request; and the September 12, 2018 transfer summary.

II. Review of Bulger’s Designation Materials By Hazelton Staff

A. Multiple Hazelton Staff Are Notified of Bulger’s Redesignation in Early October 2018

The Hazelton Case Management Coordinator (CMC) and the Hazelton Deputy CMC told us that they were among the recipients of the OMDT Designator’s October 8, 2018 email stating that Bulger had been redesignated to Hazelton as a medical care level 2 inmate. The next day, on October 9, the Hazelton Deputy CMC forwarded the OMDT Designator’s October 8 email to more than 58 Hazelton email addresses, 2 of which appeared to be general email inboxes accessible by multiple individuals. The Hazelton CMC and Deputy CMC told the OIG that the recipients of the Deputy CMC’s email included Hazelton Psychology, Health Services, SIS, and Unit Team staff. The Deputy CMC told the OIG that she has a “designation” group set up in her email account and she always forwards designation emails to that group. The Deputy CMC said that the fact that Bulger was identified as Broad Publicity did not generate any additional steps or notifications on her part.

B. Bulger Departs Coleman on October 23; Hazelton Receives on October 24 a Manifest of Inmates, Including Bulger, Who Are Scheduled to Be Moved on October 29; and the Manifest is Widely Distributed to Hazelton Staff

On October 23, 2018, Bulger departed Coleman and was taken to the Oklahoma City FTC en route to Hazelton. On October 26, 2018, several media outlets reported that Bulger had been moved to the Oklahoma FTC, citing the BOP website’s inmate locator portal as the source of the information.

According to a Hazelton Supervisory Correctional Systems Specialist (Supervisory CSS), the “Manifest” of BOP inmates is a weekly list of inmates that are scheduled to be moved the following week, which is sent by the BOP’s Justice Prisoner and Alien Transportation System (JPATS) every Wednesday or

³¹ October 8, 2018, was Columbus Day, which was a federal holiday. The OMDT Designator told the OIG that she and others in OMDT have a “high work ethic,” and sometimes she works on holidays because she is able to get more work done when it is quiet in the office.

³² According to the Hazelton CMC, these mailboxes were “discipline resource boxes,” which meant that they each were assigned to individuals, who could then give proxy rights to others to access the mailboxes. For example, the Hazelton CMC told us that the Hazelton Deputy CMC had access to the Hazelton Case Management Coordinator mailbox.

Thursday.³³ The Supervisory CSS said that the Manifest includes the date and receiving institution associated with each inmate's move.

On October 24, 2018, an email was sent from the BOP's group JPAT email address attaching the Manifest of BOP inmates, including Bulger, that were scheduled to be transferred on October 29, 2018. The list of recipients of the Manifest was not visible within the email. The Manifest included specific information about Bulger, including that he was "high profile," was also known as "Whitey Bulger," had been a fugitive for 15 years, was a "former FBI most wanted," was a "mobster," was serving 2 life sentences, and was scheduled to be transported to Hazelton on October 29, 2018.

The Hazelton Supervisory CSS told us that, after receiving the Manifest, a Correctional Systems Officer sends an email to over 100 Hazelton personnel, including SIS staff, unit team staff, psychology and medical staff, and additional relevant personnel, regarding the inmates on the Manifest. He further said that this email goes to general email addresses to which multiple employees have access.

Consistent with this testimony, on October 25, 2018, an email was sent from the Hazelton mailbox "HAZ/ISM Movement" to over 100 individual Hazelton employee email addresses and several group email boxes, with the subject "USP INCOMING AIR-HARRISBURG 10/29/2018 (MONDAY) TOTAL=17." This email attached a document listing 17 inmates, including Bulger, scheduled to arrive at Hazelton on October 29, 2018. The body of the email stated: "***High Priority** NEED UNIT AND BUNK ASSIGNMENTS." The Hazelton Supervisory CSS told the OIG that the reason this email is sent is to enable Hazelton staff "to get [the inmates] set up for housing," including making housing unit and cell assignments. The Hazelton Unit Manager of the unit to which Bulger was assigned told the OIG that the number of BOP employees who are notified of impending inmate arrivals is "too many to even count."

The Hazelton Supervisory CSS said that when the Manifest was received by Hazelton, "somebody"—he could not remember who—noted that Whitey Bulger was on it. However, he said, "To be honest with you, at that time I knew the name but I wasn't really intimately familiar with who he was or what he did...."

C. Hazelton Staff Do Not Raise Security or Medical Objections to Bulger's Transfer to Hazelton

The Hazelton CMC said that it is "not uncommon" for Hazelton staff, such as SIS staff, to express concern about an inmate's transfer to Hazelton from a security perspective. Similarly, both the Hazelton CMC and the Deputy CMC stated that there have been occasions when Hazelton has objected to an inmate's transfer to Hazelton based on an inmate's medical circumstances.³⁴ The CMC stated that if Hazelton staff raises a concern regarding an inmate's transfer, he or the Deputy CMC would notify the designator so that a different designation could be considered. However, the Hazelton CMC, the Deputy CMC, the OMDT Designator, the DSCC Operations Manager, the DSCC Chief, and the Senior DAD of CPD all told us that no one at Hazelton raised concerns about Bulger's transfer.

³³ The Supervisory CSS told us that he was the supervisor over Receiving and Discharge, the Records Department, and the mailroom at Hazelton.

³⁴ The Hazelton CMC and the Hazelton Deputy CMC both provided as an example an inmate who was "781 pounds" and unable to fit in an ambulance.

The Hazelton CMC and Deputy CMC indicated that they were not involved in extensive discussions regarding Bulger's transfer. Specifically, the Hazelton CMC said he recalled a brief mention of Bulger's impending arrival during a weekly Special Housing Unit (SHU) review, but otherwise did not recall discussing Bulger with other staff. The Deputy CMC stated: "[W]hen you have 150 [or] 200 inmates in your pipeline, once you look at them once...you move on."

The Hazelton CMC told the OIG that Hazelton was an appropriate placement for Bulger. He stated that Bulger's point calculation in Sentry was commensurate with a high security penitentiary like Hazelton, Bulger had no separatees at Hazelton, and there was nothing identified in the BOP's electronic databases or paperwork that made Bulger inappropriate for Hazelton from a security perspective. The Hazelton CMC further stated that there were other Hazelton inmates who were Bulger's age or older, had heart problems, or were in wheelchairs, and Hazelton is able to accommodate "medical cases" because it is within "30 minutes" of three hospitals, including a "level one trauma center." According to the Hazelton CMC, BOP staff can seek a waiver to place a fragile inmate in a lower security-level institution than the inmate's Sentry score would dictate. However, he stated that for such an exception to be appropriate, the inmate would have to have a record of interacting "in a perfect manner" with staff and other inmates. The Hazelton CMC stated that Bulger's prior incident reports, including Bulger's recent threat against a staff member, indicated that Bulger was "still behaving like a penitentiary inmate, even though he was 89 years old."

Regarding the concern that there were other inmates associated with organized crime at Hazelton, the Hazelton CMC stated that Hazelton had "a fair number of Boston and Northeast guys," including inmates who were involved in "organized crime," which he attributed to the institution's geographic proximity to Boston and New York City. However, he also stated: "I mean, it's a penitentiary, same as, as any other. Every penitentiary has guys that are in organized crime...there's less and less of those guys all the time, but they all, they're in almost all penitentiaries. I don't think that any penitentiary doesn't have at least one."

Regarding Bulger's notoriety, the Hazelton CMC stated that Hazelton has other Broad Publicity inmates and, "They do just fine." He further stated there were other Coleman transferees that were placed in the general population at Hazelton. However, the CMC acknowledged that there were no other inmates at Hazelton with the same degree of notoriety as Bulger. In addition, the Hazelton CMC told the OIG that, due to Bulger's notoriety, he would have preferred for Bulger to have been transferred somewhere other than Hazelton. He explained: "If there was a reason I could have not taken Whitey Bulger here, I would have found it.... [N]o good comes from having somebody with that kind of notoriety at your institution...because you're inevitably going to have somebody say or do something stupid." Nonetheless, the CMC stated, "Typically...if we don't have any specific threat here or a specific...concern that's specific to Hazelton we'll take the inmate." The CMC further questioned, "You know, how could we...have known that he had an issue with somebody that he'd never met?"

The Deputy CMC told the OIG that she did not have concerns about Bulger's transfer to Hazelton. Like the Hazelton CMC, she stated that there were other inmates at Coleman who were Broad Publicity, Bulger's age, and in a wheelchair. She further stated that Hazelton is in "close proximity to two major hospitals."

We also spoke with the Hazelton SIS Technician who was assigned to assess the risk of Bulger's transfer (Hazelton SIS Technician). The Hazelton SIS Technician told the OIG that he assesses the risks of CIM and other high-risk inmates being transferred to Hazelton, based on the inmate population and the

transferee's background.³⁵ He stated that if SIS determines that a transferee will have "issues" at Hazelton, SIS will contact the Deputy CMC to see if a different receiving institution can be identified.

The SIS Technician told the OIG that when he received the Deputy CMC's October 9 email, he thought to himself, "[W]ow, Whitey Bulger's coming." However, he stated that beyond that reaction he did not think about Bulger until he received the Manifest a few days before Bulger was scheduled to arrive. The SIS Technician stated that he consulted the intelligence database TRUINTEL, and he did not identify anything that caused him concern about Bulger being in the general population at Hazelton, such as indications that he would clash with other inmates. The OIG reviewed a TRUINTEL report dated October 30, 2018, which contained notations indicating, among other things, that Bulger was a member of the Winter Hill Gang, was a "mob boss" tried in Boston, and had a connection to "Gambino—Old John Gotti Info." The SIS Technician told the OIG that he did not consult with other inmates to assess the risks Bulger faced in the general population at Hazelton, because he did not want to alert the inmate population of Bulger's impending arrival.

According to the SIS Technician, while there were two "associates," of organized crime families at Hazelton at the time of Bulger's transfer, there were no "members" of organized crime families or Massachusetts "gang members." The SIS Technician stated that one of the two organized crime associates was in the unit to which Bulger was later assigned. This inmate, Fotios Geas, was sentenced to life imprisonment in 2011 for Racketeering Conspiracy, Murder in Aid of Racketeering, and related crimes. According to court documents, there was testimony during Geas's trial regarding Geas's association with the "Genovese Organized Crime Family" (a nationwide organized crime enterprise based in New York that also operated in Massachusetts, among other places). As noted earlier in this report, on August 18, 2022, Geas was one of three individuals charged with Conspiracy to Commit First Degree Murder and other charges in connection with Bulger's death.³⁶ The SIS Technician said that the other associate of organized crime at Hazelton was on the same "side" of the penitentiary but not in the same unit as Bulger. He explained that inmates on the same side of the penitentiary "see each other at lunch, rec yard and education and all that stuff." The SIS Technician told us that he knew in advance that Bulger was going to the unit where one of the organized crime associates was housed and "thought" about it. However, the SIS Technician stated that there was no intelligence that indicated that the two associates of organized crime posed a threat to Bulger. The SIS Technician stated that there was also a group of inmates from "Boston, Tristate, New York, New Jersey, [and] Connecticut" who "all hang out to together" at Hazelton, but he did not consider them to be a gang.

The SIS Technician told the OIG that he was surprised that Bulger was transferred to Hazelton based on a combination of factors including Bulger's age, his health, and the fact that Bulger had previously been placed at institutions with reputations for being relatively safe. However, the SIS Technician stated that there were other inmates like Bulger at Hazelton. The SIS technician further stated that it was rare for him to raise security concerns regarding the transfer of inmates to Hazelton. The SIS Technician explained:

³⁵ For example, he stated that if a transferee has "issues" with "New York guys," SIS might request that the transferee be sent elsewhere because Hazelton has numerous inmates from New York.

³⁶ Geas was also charged with Murder by a Federal Prisoner Serving a Life Sentence, and, according to the indictment, Geas and DeCologero struck Bulger in the head multiple times while McKinnon served as a lookout.

I assumed since nobody else, because I looked at it and I was like all right, he's good to go. I don't have any concerns here. And I thought since nobody in our office, nobody in the DSCC, the case managers, nobody had any issues, we're good to go.

The SIS Technician further told the OIG that there was no particular plan for Bulger's arrival and that he was treated "like any other inmate."

We also interviewed an AHSA at Hazelton (Hazelton AHSA), who told us that she reviews medical information for inmates who are pending transfer to Hazelton to determine whether they are "able to come [to Hazelton] based on their health needs." She stated that she received the Deputy CMC's October 9, 2018 email regarding Bulger's transfer and that the transfer paperwork did not raise any concerns about Bulger's transfer. As previously identified, the transfer documents included the statement that Bulger's atrial fibrillation had "resolved 12/4/2013" which was inconsistent with Bulger's more recent medical records, including a hospital discharge summary that assessed Bulger as suffering from "[a]trial fibrillation with rapid ventricular response" in April 2017. The transfer documents also asserted that Bulger was "stable" and "no longer has any additional follow ups," even though Bulger sought medical care in each of the 4 preceding months and three of these incidents led to a determination that hospital treatment was necessary to address Bulger's cardiac issues. The Hazelton AHSA told us that she generally relies on the transfer packet and information provided by OMDT and DSCC to determine whether an inmate is appropriate for transfer to Hazelton, and that she generally does not review an inmate's electronic medical records before the inmate arrives. She stated that this is, in part, because Hazelton receives approximately 40 new inmates per week. Accordingly, the Hazelton AHSA indicated that she would only raise concerns about an inmate's transfer if there was information in the transfer paperwork that caused her concern.

After reviewing portions of Bulger's medical file during her OIG interview, the Hazelton AHSA told the OIG that she was not aware before her OIG interview that Bulger had been hospitalized for chest pain multiple times during the last several months before his transfer because this information was not noted in his transfer paperwork. She further stated that it would have been helpful to know about the recent hospitalizations before Bulger's transfer because sending an inmate to the hospital can be difficult due to staffing issues. The Hazelton AHSA stated that, had she been aware of the more recent medical history, she would have resisted Bulger's transfer.

III. One of the Three Unit Managers at Hazelton Requests that Bulger be Assigned to One of His Units and the Request is Granted

BOP staff told the OIG that there is no formal policy that dictates how inmates are assigned to particular units, case managers, or cells once they are designated to an institution, and the unit managers and case managers decide these assignments among themselves. For example, one case manager stated, "[W]e just choose them off the bus normally," and told us that the factors that are considered include space issues and the race of the inmate (to ensure inmates of different races are distributed appropriately).

At the time of Bulger's transfer, Hazelton had 3 unit managers who oversaw a total of 12 units. Each unit manager was assigned between three and four case managers. We spoke with all three unit managers and two of the unit managers told us that the unit managers take turns screening new arrivals and assigning them to units. The Unit Manager who had this responsibility at the time of Bulger's transfer (Unit Manager 1) told the OIG that the unit managers work together once they receive the Manifest to determine which inmates will go to which units, and that this determination is based on "caseload size" and "availability

of bed space.” Unit Manager 1 said the unit managers also take into account whether the inmate has any separatees on the compound, as well as gang affiliations and medical issues. Unit Manager 1 said that these issues are addressed before the inmates arrive, typically by phone or email rather than through an in-person meeting, and then reassessed during the screenings of inmates upon their arrival. Unit Manager 1 told the OIG that SIS had not shared any concerns regarding Bulger’s placement in any particular unit.

The Unit Manager over the housing unit to which Bulger was assigned at Hazelton (Unit Manager 2) told the OIG that when he received the Manifest, he recognized Bulger’s name because Bulger had been on the FBI’s Most Wanted list. Unit Manager 2 further told the OIG that he asked Unit Manager 1 to assign Bulger to one of his units, because he believed he supervised Hazelton’s “three strongest case managers.” Specifically, he stated:

As far as caliber and the quality of staff assigned to [Hazelton], if you took a poll or talked to anybody with any knowledge or experience of unit team, unit management, correctional programs at the penitentiary, I have, it would be no secret to say that I have the three strongest case managers assigned to the penitentiary.

Unit Manager 2 stated that his view that he supervised Hazelton’s three strongest case managers was evidenced by the fact that he had only three case managers and three counselors for four housing units, whereas the other unit managers each had four case managers and four counselors for the same number of units. He explained that he believed his unit was assigned the three strongest case managers, due to the fact that his unit was short-staffed. Unit Manager 2 further stated, “So, with all the publicity associated with the Bulger case I asked that he be assigned to one of those units because I had the utmost faith and trust in my staff that they would handle it better than anybody else would at the USP.” Unit Manager 2 told us that Unit Manager 1 granted his request and that there was no higher level approval required, such as from the Warden, for Bulger to be placed in one of his units.

Unit Manager 1 told the OIG that Unit Manager 2 “volunteered to take [Bulger] in his unit because of [Bulger’s] Broad Publicity status.” Unit Manager 1 stated that she did not find it strange that Unit Manager 2 volunteered to take Bulger, because some BOP employees have more experience than others dealing with the responsibilities that come along with a Broad Publicity inmate, such as responding to “outreach” from the media or interview requests. She further stated that she believed Unit Manager 2 had “experience in dealing with Broad Publicity cases in the past.” Like Unit Manager 2, Unit Manager 1 said there is no requirement for higher level approval once the unit managers select a unit for a new inmate. However, Unit Manager 1 stated that the case managers in Unit Manager 2’s unit were no more capable than any other case managers at Hazelton to handle Bulger. Rather, she stated that all the case managers had the same training and were comparable in their abilities.

Unit Manager 2 told the OIG that he selected the particular unit for Bulger to be housed based on availability of bed space, handicap accessibility including proximity to the dining hall, and a BOP practice of housing inmates with similar racial and ethnic backgrounds together. He further stated that once a unit is selected, the unit managers seek input from correctional services staff, including SIS. Unit Manager 2 stated that he had not been made aware of any concerns from SIS staff, the Warden, or others related to Bulger prior to Bulger’s arrival. In addition, Unit Manager 2 said that he was not required to receive approval of his unit selection from the Warden.

The OIG asked Unit Manager 2 whether he considered or discussed with others the fact that there was at least one other former organized crime associate in the unit that he selected for Bulger. Unit

Manager 2 responded that he was not a “gang expert,” and he was not aware of that information “being discussed or put out” by others before Bulger arrived. He stated that no concerns “were expressed to me. None that I was aware of.” He further said that he was unaware before Bulger arrived that any of Bulger’s “rivals” were in the unit or that Bulger faced any “threats” in the unit. In addition, he said that he may not have been “entirely aware of the dynamic of, not just Bulger’s piece, but also any other inmate that may have been housed and basically the intricacies of their affiliation.” Unit Manager 2 said, “We thought we were housing him in the most appropriate place that we could.” Unit Manager 2 explained: “We viewed Bulger [as] a non-gang-affiliated white” and “typically...in a correctional setting, there’s a division between gang affiliated and non-gang affiliated whites, as well as other races and groups.” He further explained that the unit in which Bulger was placed was “one of the only units that had cell availability for non-gang-affiliated white inmates.”

The OIG also asked Unit Manager 2 whether before Bulger arrived, the Unit team discussed Bulger’s unique circumstances, such as his age and medical issues, or conducted a threat assessment. Unit Manager 2 responded that those issues should have already been “discussed and hashed out” and that “once [the inmates are] here and they’re out in the [general population]...we just manage them that way. We deal with it. I mean, we’ll deal with a problem...as they’re here.” He further stated that Bulger was treated like “any other Broad Publicity inmate.” Unit Manager 2 told the OIG, “if we had to do it over again we may do some things differently that could have prevented the, a loss of life.” However, he did not specify what he thought the BOP could have done differently or better. Moreover, he stated that BOP staff followed “proper protocols” and noted that “hindsight is always 20/20.”

IV. Inmates Became Aware of Bulger’s Designation to Hazelton in Advance of His Arrival

The OIG identified evidence that numerous Hazelton inmates were aware of Bulger’s designation well before his arrival, even though BOP policy prohibits “the release to the general public of an inmate’s designation or redesignation information...for security reasons, until the inmate has arrived at the designated facility.” The Hazelton Supervisory CSS stated that BOP staff are expected to keep information regarding impending inmate arrivals confidential from other inmates and, thus, other inmates should not know the identity of new inmates until the inmates complete their intake screening and are “released to the compound.” The Hazelton CMC, the Hazelton Deputy CMC, the Hazelton Unit Manager to whom Bulger was assigned, and the Hazelton SIS Technician all told the OIG that they had not heard any discussions among inmates indicating that inmates knew of Bulger’s transfer before he arrived.

Nonetheless, the Hazelton Unit Manager told us that inmates are “very savvy” about obtaining information, and the SIS Technician said that he was “sure inmates knew because they know when everybody’s coming.” The SIS Technician further said, “I’m sure [other inmates] overheard staff” discussing Bulger’s impending arrival. Similarly, a Senior Intelligence Designator told us: “The inmates at the institution a lot of times know before the inmate gets there who is coming. I don’t know how.... I wish I did. It would be a million dollar question that we can answer.”

Indeed, we identified at least one phone record and multiple emails showing that inmates at Hazelton were aware of Bulger’s impending transfer before he arrived. We also obtained inmate testimony describing their advanced knowledge of Bulger’s arrival at Hazelton.

According to documentation provided by the BOP to the OIG, a Hazelton inmate made a phone call on October 29, 2018, at 8:08 a.m., in which he spoke with a female he called “Mom” and told her that Whitey Bulger would be arriving that night. The inmate further stated in the call that the inmates “got a heads-up.”

The OIG identified three emails evidencing that Hazelton inmates knew about Bulger’s designation to Hazelton before his arrival. Two such emails were sent by Hazelton inmates, and one email was from an external email address to a Hazelton inmate. These three emails are described below.

- On October 25, 2018, at 10:19 a.m., 4 days before Bulger’s arrival at Hazelton, one inmate sent an email to an individual at an external email address stating: “Hey, forgot to tell u [sic] Whitey B. the celebrity [sic] is coming here. U [sic] want his auto graph??? I hear he sells it? [sic]”
- On October 27, 2018, at 3:36 p.m., 2 days before Bulger’s arrival at Hazelton, an individual sent an email from an external email address to a Hazelton inmate describing historical information related to Bulger and the Winter Hill Gang. The individual who received this email has since been released from BOP custody.
- On October 29, 2018, at 8:33 p.m., just before Bulger was escorted into the housing unit at Hazelton, an inmate wrote to an individual he called “mamma”: “if i[sic] dont [sic] call you tomorrow then we are locked down for probably 30 days cause [sic] we got word whitey [sic] bulger [sic] is coming to the yard tonight..you [sic] remember him as the boig [sic] boston [sic] irish [sic] mobster leader who was just caught a few [sic] years ago..well hes[sic] been a government witness for 20 years aso[sic] yeah you already know...”.

We attempted interviews of the inmates who sent emails about Bulger on October 25 and October 29, 2018. The inmate who sent the email on October 25 (Inmate 1) declined to be interviewed. The inmate who sent the email on October 29 (Inmate 2) participated in a voluntary interview with the OIG and confirmed that he sent the October 29 email to his mother. Inmate 2 told the OIG that he learned that Bulger was being transferred to Hazelton between a few days and a week before Bulger’s arrival. He stated that it became common knowledge at Hazelton that Bulger was being transferred there and that, “Everyone was talking about it on the yard.” Inmate 2 stated that he could not remember specifically who told him that Bulger was being transferred to Hazelton, but he was certain he was told by inmates, not by BOP staff. Asked why he stated in the October 29 email that that Hazelton would be “locked down,” he responded that he assumed that multiple inmates would try to kill Bulger due to Bulger’s notoriety as a former government witness. Inmate 2 described his knowledge as “yard talk” and denied having any personal knowledge of specific individuals who intended or attempted to kill Bulger.

We also interviewed a third inmate (Inmate 3) who told the OIG that he was aware that Bulger was being transferred to Hazelton approximately 2 weeks before Bulger arrived. He stated that the entire prison knew Bulger was coming to Hazelton. Inmate 3 further stated that he initially overheard other inmates discussing Bulger’s impending transfer, but he did not know how those inmates learned the information. Inmate 3 told the OIG that he eventually also heard multiple BOP officers speaking openly about Bulger coming to Hazelton, as if they were “talking about a football game.” Inmate 3 further stated that both the inmates and staff were speculating about—and inmates were betting money on—how long Bulger would stay alive at Hazelton. Inmate 3 attributed these discussions to the fact that there were several inmates in Bulger’s compound who were in the Genovese Crime Family, which the inmate said had a “beef” with

Bulger's gang. In addition, Inmate 3 told the OIG that after Bulger arrived at Hazelton, multiple inmates were "yelling" about Bulger being a "rat" for about an hour.

Inmate 3 identified one particular SIS officer (SIS Officer 2) who he said spoke openly about Bulger's impending transfer to Hazelton. According to Inmate 3, SIS Officer 2 said that he thought Bulger would not "last very long." In addition, Inmate 3 said that SIS Officer 2, in a "joking manner," told four of five inmates in a Hazelton hallway that they were going to be "getting some company," because Bulger "decided to threaten an officer" at Coleman. Asked whether he could provide names of other inmates who heard this statement by SIS Officer 2, Inmate 3 was unable to provide any names other than the first name of one inmate. In addition, Inmate 3 told the OIG that after Bulger's death, he questioned SIS Officer 2 and other staff about "dropping the ball" with respect to Bulger, and that, thereafter, SIS Officer 2 "caused [Inmate 3] to get fired" from his prison job. Inmate 3 also said that SIS Officer 2 took an action that led to Inmate 3 being assaulted by other inmates. Inmate 3 acknowledged that he was "upset" about SIS Officer 2 firing him and placing him in danger.

The OIG interviewed SIS Officer 2, who told us that he was aware of Bulger's impending arrival to Hazelton approximately 4 to 6 weeks before he arrived, because SIS staff run reports in Sentry of newly designated inmates two to three times per week. SIS Officer 2 said that when Hazelton SIS staff learned of Bulger's designation, SIS staff discussed Bulger during executive meetings. SIS Officer 2 said that once he realized who Bulger was, he had concerns about Bulger being transferred to Hazelton. However, as noted earlier in this report, SIS did not raise any concerns regarding Bulger's transfer to Hazelton to the Hazelton CMC, DSCC, or OMDT. SIS Officer 2 denied that he discussed Bulger's impending arrival with inmates or in the presence of inmates, and he did not recall any interactions with Inmate 3.

Inmate 3 also identified two particular BOP officers whom he overheard questioning why Bulger would be sent to an institution with a reputation for being dangerous. Inmate 3 stated that he was "surprised" that these two officers cared about Bulger's wellbeing.

In addition to the emails described above, the OIG identified the following emails tending to corroborate the statements by BOP inmates that there were rumors among BOP inmates about Bulger and what might happen as a result of his transfer to Hazelton:

- On October 29, 2018, at 7:44 p.m., the night Bulger arrived at Hazelton but prior to his escort into the housing unit, an inmate identified by BOP personnel as a "Gambino Family Member" emailed an individual he called "mom": "[w]e do not go to the store till [sic] wednesday [sic] I;m [sic] hoping [sic] we do not get locked down before that...."
- On October 30, 2018, at 7:13 a.m., after Bulger's arrival at Hazelton but before his death, an inmate wrote to an individual at an external email address, "rumors of some shit that may or may not go down right here in my dorm...so if you dont [sic] hear from me you know why."
- On October 30, 2018, at 7:38 a.m., an inmate wrote to an individual identified as "wife": "if u [sic] dont [sic] hear from me why,[sic] whity [sic] bulger[sic] is here n [sic] he aint [sic] suppose [sic] to be here."

The OIG also reviewed BOP notes taken from hundreds of interviews of BOP inmates by BOP officials seeking information about Bulger's death. While the majority of inmates interviewed by the BOP

provided little to no information, multiple inmates stated that Bulger was killed because he was a notorious cooperator or informant and/or that everyone knew Bulger would be killed. Some BOP inmates placed the blame on the BOP. For example, one inmate stated: "He was a rat. What would you think would happen to him?" Another inmate stated, "I heard he was a well known government informant.... Seems he shouldn't have walked the yard. He wouldn't have been ok anywhere."

Given the substantial number of employees throughout the BOP who were notified of Bulger's impending transfer, including at Hazelton and through general email inboxes that were accessible by multiple BOP officials, as well as the inmate testimony that multiple BOP employees were openly discussing Bulger's impending arrival in the presence of inmates, we did not undertake an effort to identify and interview all BOP employees who were aware of or discussed in the presence of inmates Bulger's impending transfer to Hazelton. However, we requested from the BOP all emails of Hazelton employees that referenced Bulger or his gang, from August 2018 through October 2018. We received 135,179 documents in response to this request, and 878 of them were relevant to Bulger's transfer to Hazelton and discussions about Bulger before and after his arrival at Hazelton. We did not find evidence in these emails indicating that BOP employees shared information with inmates about Bulger's transfer, facilitated Bulger's transfer to Hazelton for improper reasons, or otherwise colluded with inmates or others to engage in criminal or administrative misconduct with respect to Bulger.

V. Bulger's Arrival and Intake at Hazelton on October 29

Bulger arrived at Hazelton on October 29, 2018, at approximately 6:00 p.m. The BOP bus lieutenant responsible for transporting Bulger stated that, due to Bulger's notoriety, he decided to transport Bulger in a van separate from other inmates being transported to Hazelton by bus. The bus lieutenant stated that before being placed in the van, Bulger complained of chest tightness and asked for medicine, and that he gave Bulger his nitroglycerine and aspirin. The bus lieutenant further stated that Bulger did not express any concerns for his safety and stated: "I wanna go to the yard [referring to being placed in the general population] if they let me."

The OIG reviewed a BOP "Memorandum for Case File," which included a timeline from Bulger's arrival at Hazelton through his death (Hazelton Timeline). The Hazelton Timeline was written by a Hazelton SIS lieutenant on October 31, 2018. According to the Hazelton Timeline, on October 29, 2018, at 6:19 p.m., Bulger arrived at Hazelton, entered through the lobby with a staff member, and was escorted to Receiving and Discharge. Bulger then underwent the standard intake procedures, including intake interviews with the SIS technician and with the Unit Team, both of which interviews afforded Bulger the opportunity to disclose information relevant to his safety at Hazelton.

The SIS Technician told the OIG that he conducted Bulger's SIS intake screening, which is focused on "safety based and gang based issues." According to the SIS Intake Screening Form dated October 29, 2018, Bulger stated that he was not a member of a gang, that he did not have any conflicts with other gangs or groups, and that there was nothing that should preclude him from being housed in the general population. Similarly, according to the Unit Team Intake Screening Form dated October 29, 2018, Bulger answered "no," when asked whether he was a member of a gang, whether he had any conflicts with other gangs or groups, whether he has ever "assisted law enforcement in any way," and whether he has ever testified against anyone in court. Bulger also answered "no" during his Unit Intake Screening when asked if there was any reason not to place him in the general population. He answered "yes" to being a CIM case. Bulger's signature was on both of these forms. According to documentation we reviewed, these were the same

answers Bulger provided when he was transferred to Coleman in September 2014. However, in his intake paperwork at Tucson in January 2014, he answered that he was a member of the Winter Hill Gang. In addition, both the SIS Technician who conducted Bulger's SIS Intake Screening and the Unit Counselor who conducted Bulger's Unit Intake Screening at Hazelton stated during interviews with the FBI that Bulger said that he was a member of the Winter Hill Gang when asked about gang affiliations. The Unit Manager told us that even if Bulger had identified himself to intake staff as a law enforcement cooperator, he might still have been placed in the general population at Hazelton, because there were "dozens" of law enforcement cooperators in the general population at Hazelton.

The SIS Technician told the OIG that intake screenings typically take approximately 2 to 3 minutes, and that this was the case for his intake screening of Bulger. The SIS Technician stated that at the beginning of the intake screening Bulger "seemed a little rattled," but he took nitroglycerin pills, which "seemed to calm him down." The SIS Technician told us that Bulger stated during his intake screening, "I got two life sentences. I want to go to the yard." Further, the SIS Technician stated that Bulger was "really eager" to enter the general population. Similarly, the Unit Counselor who conducted Bulger's Unit Intake Screening stated that Bulger said he had no safety concerns and there was no reason to keep him out of the general population. As noted earlier, prior to departing Coleman for his transfer to Hazelton, Bulger had spent over 8 months in the SHU at Coleman while Coleman sought to arrange his transfer. The SIS Technician stated that just before the intake screening ended, he asked Bulger, "You sure to [sic] go to the yard, man?...I saw the movie," which the OIG understood to be a reference to either "The Departed," a movie that is reportedly based on Bulger's Winter Hill Gang, or "Black Mass," which depicts Bulger's criminal activities, and Bulger responded, "Don't believe everything you see."

The SIS Technician told the OIG that he treated Bulger like any other inmate, even though he was identified as Broad Publicity. He stated that in his experience inmates that have received significant publicity are typically "left alone" by other inmates. He further stated that there were other inmates in the general population who were high risk, such as recent law enforcement cooperators and sexual offenders. Indeed, the SIS Technician stated that 20 to 30 percent of the inmates on each bus being transferred to Hazelton are inmates that have testified against others. Asked whether Hazelton was a dangerous place for informants, the SIS Technician responded, "I mean, just a dangerous place altogether." He also said that there were other inmates in wheelchairs, inmates with health problems, and even blind inmates in the general population at Hazelton. The SIS Technician further stated that inmates are placed in the general population at Hazelton, unless they state that they want protection when asked during their screening.

A Hazelton Receiving and Discharge Correctional Systems Officer stated that she met with Bulger and that Bulger told her, "I don't want to go to the SHU. I love everybody and I'm good with everybody. I don't need the SHU. I just left the SHU." The Correctional Systems Officer further said that when Bulger was being photographed he stated, "Who knows, this might be my last picture?" The Correctional System Officer said that she asked Bulger to clarify and he explained, "I'm old and will not have too many more transfers in me."

Similarly, the Hazelton Supervisory CSS told the OIG that he was told that Bulger was "adamant" that he wanted to enter the general population, did not want protective custody (i.e., placement in the SHU for his protection), and "wanted to get out of the SHU." The Hazelton Supervisory CSS further said that "nine times out of ten if the inmate does not request [protective custody], we don't usually make them take it." The SIS Technician told the OIG that if Bulger had requested to go to the SHU, he would have been placed in the SHU for his safety.

The Senior DAD of CPD told the OIG that, depending on the circumstances, inmates can be temporarily placed in the SHU when they first arrive at a new facility for their protection until the risks of placing the inmate in the general population can be assessed. However, the Senior DAD stated that not all Broad Pendency inmates are placed in the SHU when they first arrive at a new facility and noted that Bulger could not have spent his entire life in the SHU.

Bulger also underwent a medical assessment upon his arrival at Hazelton. The paramedic who conducted Bulger's medical assessment stated that Bulger arrived at Hazelton in a wheelchair and told her that he had been using one off and on for years. The paramedic stated that she therefore ensured that Bulger was assigned to a lower cell and lower bunk in the unit. This determination was consistent with Bulger's medical records, which indicated that Bulger required a bottom cell and a bottom bunk. In addition, Bulger utilized a wheelchair while he was incarcerated at Coleman. According to the Hazelton AUSA, the paramedic did not identify any concerns with Bulger other than that he required a wheelchair.

Unit Manager 2 told us that because Bulger was given a wheelchair when he arrived at Hazelton, he had to be placed in a handicap-accessible cell. Unit Manager 2 further told us that there are only two cells in each unit that are handicap-accessible, and Bulger was placed in one of those cells. Unit Manager 2 stated that one concern was that Bulger was placed with a cellmate who was African American. Unit Manager 2 stated that this was a concern, because staff try to avoid putting inmates of different races in the same cell. According to Unit Manager 2, on the night of October 29, the cellmate stated that he was willing to be temporarily housed with Bulger. However, the next morning, before Bulger's death, the inmate asked to be moved to a different cell because other inmates were already complaining that a white inmate and a black inmate were being housed together.³⁷

According to the Hazelton Timeline, on October 29, 2018, at 8:48 p.m., Bulger entered the F-1 Housing Unit with a staff escort, after the other inmates in the housing unit had been secured in their cells in preparation for the 9:00 p.m. institutional count. Unit Manager 2 told the OIG that Bulger was taken in a wheelchair to the handicap-accessible cell at the end of the housing unit. Unit Manager 2 stated that, based on these circumstances, numerous inmates—at least half the unit—likely observed Bulger from their respective cells as Bulger was taken to his cell. In particular, he stated that Bulger being taken in a wheelchair likely would have garnered significant attention from other inmates. According to the Hazelton Timeline, Bulger was secured in his cell at around 9:00 p.m. on October 29, 2018.

³⁷ After reviewing a draft of this report, Unit Manager 2 told the OIG that he was not present the night of Bulger's arrival and, therefore, the information he provided about that night "would have been third-party information."

Chapter 6: Bulger's Death

On the morning of October 30, the Housing Unit Officers unlocked the cells for the entire inmate housing unit in which Bulger was placed at 6:10 a.m., according to the Hazelton Timeline. Unit Manager 2 told us that after the "5 a.m. count," the cell doors are opened and inmates are permitted to move freely within the housing unit.

The OIG reviewed the video surveillance system of the housing unit and found that BOP staff unlocked the cell doors to Bulger's cell at 6:10 a.m. and Bulger's cellmate exited the cell at 6:16 a.m. The surveillance further showed that two individuals entered the cell housing Bulger at 6:19 a.m., closed the door behind them, and departed at 6:26 a.m. According to the Hazelton timeline, at 7:26 a.m., Bulger's cellmate entered Bulger's cell and immediately exited with laundry bags of property. The video surveillance showed that a correctional officer conducted a round of the unit at 7:37 a.m., but did not enter Bulger's cell. At 8:13 a.m., a shift change occurred and another correctional officer can be seen conducting rounds. During these rounds, at approximately 8:21 a.m., BOP staff found Bulger unresponsive with no pulse, in his bunk, with visible injuries to his head and face, consistent with having been involved in a physical altercation. According to Bulger's medical records, BOP staff immediately initiated life-saving measures, including cardiopulmonary resuscitation (CPR) and attaching an automated external defibrillator (AED). BOP staff called for an ambulance at 8:24 a.m., and at 8:45 a.m. the ambulance services arrived and transported Bulger to the Health Services Department "for the continuation of life saving measures by staff and local ambulance personnel." Bulger was pronounced deceased at 9:04 a.m.

The State of West Virginia, Department of Health and Human Services, performed an autopsy of Bulger on October 31, 2018. According to the autopsy report, Bulger had blunt force injuries to his head, left ear, back, and extremities, and sharp force injuries to his eyes and left cheek. He also had injuries to his ribs which were consistent with attempted resuscitation. The Medical Examiner wrote under the heading "Opinion:"

It is my opinion that James J. Bulger, an 89-year-old man, died as a Federal prison inmate due to blunt force injuries of the head sustained during an assault by other(s).

MANNER OF DEATH: The circumstances surrounding the death as determined by the death investigation and post-mortem examination, indicate that the manner of death is homicide.

Chapter 7: Analysis

In this chapter, we provide our analysis of the BOP's handling of Bulger's transfer from Coleman to Hazelton.³⁸ We did not find evidence that the BOP employees who were involved in his transfer acted with a malicious intent or an improper purpose, or that they intended to have him placed in an institution where he would be in serious physical danger. Nevertheless, we identified serious job performance and management failures at multiples levels within the BOP. For example, we found it deeply troubling that BOP personnel placed an 89-year-old BOP inmate who used a wheelchair and had serious heart conditions for which medical doctors frequently recommended hospitalization and surgery in a single cell in the SHU for 8 months while it was bureaucratically struggling with deciding how to transfer him to a new facility, and then decided to transfer him to a new facility that provided a lower level of medical care than his prior facility, without adequately considering certain aspects of his medical records, including his repeated serious cardiac and other medical incidents over the preceding several months.³⁹ This lengthy SHU placement of Bulger in a single cell before his transfer from Coleman caused him to state that he had lost the will to live, and may have affected his persistence upon arriving at Hazelton that he wanted to be assigned to general population. Further, we found that minimal efforts to plan for Bulger's arrival at Hazelton from a security perspective enhanced the risk that Bulger would be harmed by other inmates following his transfer.

The specific management and performance failures we identified in connection with Bulger's medical transfer include: confusion and lack of communication among BOP personnel regarding the transfer process; BOP medical professionals failing to adequately review Bulger's medical records and failing to take into account Bulger's ongoing cardiac and other medical incidents when making decisions about his medical care level and transfer; BOP officials failing to accurately represent Bulger's medical condition in BOP transfer paperwork; and the BOP not timely updating Bulger's medical care level. We were particularly concerned that the final transfer paperwork submitted by Coleman employees was contrary to and did not even acknowledge the clear direction that the OMDT Designator gave them in August 2018 that the BOP's then Chief of Health Programs (CHP), the supervisory physician overseeing OMDT in BOP's Central Office, had made a medical determination that Bulger was a medical care level 3 inmate. In addition, we were troubled to find that the subsequent decision to lower Bulger's medical care level was actually based on a plausible interpretation of BOP guidelines, and we therefore determined that the guidelines were flawed and lacked clarity.

We also found that, due to BOP's standard procedures, well over 100 BOP officials were made aware in advance of Bulger's impending transfer to Hazelton, and that Hazelton personnel openly spoke about

³⁸ As noted in the Introduction, the OIG's investigation of the handling of Bulger's transfer is separate from the homicide investigation being conducted by the FBI.

³⁹ After reviewing a draft of this report, the BOP stated that the OIG's referral in the draft report to Bulger having a "serious heart condition" is misleading as there are far more serious and lethal heart conditions than [atrial fibrillation], which can be quite well managed in many patients." We note, however, as described in this report, that Bulger had multiple heart issues that led to BOP medical practitioners recommending on numerous occasions that Bulger be hospitalized and undergo surgery and warning him that he could die if he did not follow those recommendations; indeed, the Coleman Medical Director stated that Bulger was a "ticking bomb, clinically speaking, because of his cardiac issues" and was "an extremely fragile patient because of his age and all of his chronic medical problems;" and the BOP's CHP recommended that Bulger not be housed in a medical care level 2 facility but rather be housed in a medical care level 3 or 4 facility. Based on these descriptions by the BOP's own medical professionals, the OIG continues to believe that Bulger's medical condition at the time of these events can fairly and appropriately be referred to as serious.

Bulger's upcoming arrival in the presence of Hazelton inmates, which was contrary to BOP policy. The widespread knowledge of Bulger's transfer among BOP officials made it impossible for us to determine which BOP employees were responsible for these improper disclosures, which resulted in numerous Hazelton inmates being aware of Bulger's transfer to Hazelton days before it occurred. In addition, days before Bulger's arrival at Hazelton, several media outlets reported that Bulger had been moved to the Oklahoma FTC, citing the BOP website's inmate locator portal as the source of the information. The knowledge among Hazelton inmates of Bulger's impending transfer subjected Bulger, due to his history, to enhanced risk of imminent harm upon his arrival at Hazelton.

We further found that the steps taken by BOP personnel to assess whether Bulger faced harm from other inmates at Hazelton were lacking. BOP policy did not require Bulger, based on his inmate profile in BOP databases, to be assessed by a BOP Senior Intelligence Designator—a BOP employee specially trained to conduct intelligence assessments and assess risks by other inmates—prior to his transfer. In addition, several BOP officials told us that they either did not know of Bulger's notoriety or did not consider his identity in making decisions about his transfer. Multiple witnesses told us that they treated Bulger "like any other inmate." While the lack of awareness or consideration of Bulger's identity by BOP officials tends to indicate that these BOP officials did not have improper motivations in connection with Bulger's transfer to Hazelton, we believe BOP policies should ensure more meaningful and concerted consideration of security risks when an inmate of Bulger's notoriety is transferred.⁴⁰

The fact that the serious deficiencies we identified occurred in connection with a high-profile inmate like Bulger was especially concerning given that the BOP would presumably take particular care in handling such a high-profile inmate's case. We found that did not occur here, not because of an improper intent or failure to comply with BOP policy, but rather because of staff and management performance failures, bureaucratic incompetence, and flawed, confusing, and insufficient policies and procedures. In our view, no BOP inmate's transfer, whether they are a notorious gangster or a non-violent offender, should be handled like Bulger's transfer was handled in this instance. Accordingly, we make 11 recommendations for improvements to BOP policies to address the concerns we identified. In addition, the OIG is providing this report to the BOP to review the performance of the employees as described in this report for any action it deems appropriate.

⁴⁰ After reviewing a draft of this report, the BOP wrote that it was appropriate for medical staff to not consider Bulger's notoriety when reviewing his medical records to "ensure bias is not introduced into the medical decision making." The OIG agrees with this statement. However, the OIG found that certain nonmedical personnel who were tasked with assessing security risks in connection with Bulger's transfer also did not consider his notoriety. For example, the Hazelton Special Investigative Services (SIS) Technician, who was responsible for assessing security risks in connection with Bulger's transfer, told us that he treated Bulger "like any other inmate;" and the Operations Manager over the Designation and Sentence Computation Center (DSCC), who was responsible for providing Central Inmate Monitoring (CIM) clearance, told us that he viewed Bulger as "just another old gangster." The OIG believes that it is important for the BOP to consider an inmate's notoriety when assessing security risks in connection with the inmate's transfer, and, in fact, BOP policy requires a higher level of review when transferring inmates who have received widespread publicity as a result of their criminal activity or notoriety as public figures.

I. Staff Confusion Regarding Transfer Procedures and Serious Performance and Management Failures Led to Bulger's Extended SHU Incarceration and Undermined the Reliability of the Decision to Transfer Him to a Lower Medical Care Level Facility

We concluded that there were serious performance and management failures at multiples levels within the BOP, which led to Bulger's extended placement in the SHU and undermined the reliability of the decision to transfer Bulger, an 89-year-old inmate with heart conditions who had frequent medical interventions for cardiac and other incidents during his final months at Coleman, to a facility that provided a lower level of medical care. These failures included: bureaucratic confusion and lack of communication regarding the transfer process; medical professionals not adequately reviewing Bulger's medical record, not considering Bulger's ongoing cardiac and other medical incidents, and not accurately representing Bulger's medical condition in transfer paperwork, which may have led medical professional to not appreciate the seriousness of Bulger's medical condition; and the BOP not timely updating Bulger's medical care level.

A. Bureaucratic Confusion Regarding Transfer Process and Lack of Communication Among BOP Personnel Led to Delay in Bulger's Transfer

We found that bureaucratic confusion regarding the transfer process and a lack of communication among BOP personnel led to significant delay in Bulger's transfer. We further found that Bulger declined medically and psychologically in the SHU during this delay.

Bulger was placed in the SHU at Coleman in February 2018, after a Disciplinary Hearing Officer determined that Bulger had threatened a BOP nurse. After Bulger was placed in the SHU, it took the BOP 8 months to transfer Bulger. In April 2018, Coleman submitted a request to OMDT to transfer Bulger to another medical care level 3 institution. However, the transfer paperwork was returned to Coleman after the BOP Southeast Regional Medical Director determined that Bulger should have been classified as medical care level 2 based on the clinical information submitted. The Southeast Regional Medical Director requested that Coleman "submit more clinical information that would classify this patient as a care level 3." The Southeast Regional Medical Director told the OIG that he did not speak with any Coleman medical staff before making his assessment. Further, Coleman staff never responded to the Southeast Regional Medical Director's request for additional information to support a medical care level 3 classification. Instead, the Coleman Clinical Director, without reviewing Bulger's medical records, lowered Bulger's medical care level to 2 because, he stated, he was following the "chain of command." We found that the Coleman Clinical Director's decision to lower Bulger's medical care level without reviewing Bulger's medical records contravened the Southeast Regional Medical Director's guidance, because complying with the Southeast Regional Medical Director's request for clinical information that would support classifying Bulger as care level 3 would have required the Coleman Clinical Director to consult Bulger's medical record.

After the first transfer request was denied, Coleman submitted three more transfer requests before Bulger was transferred to Hazelton. In April 2018, Coleman submitted a request to the Designation and Sentence Computation Center (DSCC) to transfer Bulger to a medical care level 2 facility. Coleman's transfer request, however, was again denied, this time because Coleman used an incorrect form and sent the incorrect form to the wrong BOP office. In June 2018, Coleman submitted a third transfer request, this time to OMDT seeking to transfer Bulger to a medical care level 2 facility. However, the OMDT Designator had concerns about the request given Bulger's "complex cardiac history" and his multiple hospital visits. Accordingly, the OMDT Designator sent the request to then CHP, who was the supervisory physician overseeing OMDT at BOP's Central Office. The CHP determined that Bulger should be housed at a medical

care level 3 or medical care level 4 facility, and Coleman was instructed by OMDT in August 2018 to submit a new medical transfer request to transfer Bulger to a medical care level 3 institution. However, Coleman staff did not follow the CHP's guidance; instead, the staff made multiple attempts in August 2018 to seek further guidance from other BOP medical officials to no avail and ultimately submitted a fourth medical transfer request in September 2018. The fourth request was essentially the same as the third request, in that it was submitted to OMDT to transfer Bulger to a medical care level 2 facility. On October 3, 2018, the BOP Medical Director, without discussing Bulger's medical care with any of the other relevant BOP medical personnel, approved the request to transfer Bulger to a medical care level 2 facility.

Only one of the five BOP doctors we interviewed, Bulger's Coleman primary care physician (PCP), recalled communicating with any other BOP doctor regarding Bulger's care level before Bulger was transferred. The PCP stated that he spoke with the Coleman Clinical Director about Bulger's care level, but the Coleman Clinical Director did not recall this conversation.

We found that the confusion about the transfer process and the lack of communication among BOP personnel resulted in three failed transfer attempts and significant delay in Bulger's transfer. As a result of this delay, Bulger remained in the SHU for 8 months, during which time his medical and mental health declined. According to BOP records of a mental health screening in or about July 2018, Bulger stated that he wanted to "go to a medical center," because he "had approx. 8 heart attacks in SHU" and "was concerned about his health noting he does not want to die in SHU." In addition, on September 27, 2018, Bulger underwent a Psychology Services Suicide Risk Assessment in the SHU, during which he "proclaimed that he had lost the will to live" and "proceeded to discuss the fact he is 89 years old and has been housed in [the] SHU for 7 months." Bulger further stated: "I have no quality of life. My health is gone. I get chest pains when I eat. Chest pains when I lay down. I feel lethargic all the time. I have memory problems. I'm deteriorating." Bulger's extended time in the SHU may have contributed to his insistence when he arrived at Hazelton that he be placed in the general population rather than in the SHU. BOP employees told us that inmates are sometimes placed in the SHU at the time of transfer to a new institution, in order to protect them temporarily until their risk at the institution can be better assessed. This option was not considered for Bulger, at least in part because of his strong desire to be placed in the general population.

In addition, we found that the "Medical Treatment Completed" transfer code and associated paperwork that the BOP ultimately used to transfer Bulger to Hazelton was inconsistent with the Designation Program Statement. According to the BOP Designation Program Statement, the "Medical Treatment Completed" code is to be used when an inmate returns from a Medical Referral Center to the general population, and the "Decrease in Medical Care Level" code is to be used when an inmate's medical care level decreases from a level 3 or 2 to a level 2 or 1. We found that, given Coleman's interest in transferring Bulger to a lower medical care level facility, Bulger should have been transferred using the "Decrease in Medical Care Level" code. Nonetheless, several BOP officials told us that use of the "Medical Treatment Completed" code was appropriate given BOP practice. We believe that inconsistencies between BOP written procedures and BOP practices creates the potential for the type of confusion and delay we observed in connection with Bulger's transfer.

Based on these findings, we recommend that the BOP (1) reassess its policies to incorporate enhanced communication among personnel involved in inmate transfer decisions; (2) ensure that its written procedures and practices regarding medical transfer codes and paperwork are consistent; and (3) provide training to BOP staff regarding the transfer process and the proper documents to be used for different types of transfers.

B. BOP Medical Professionals Did Not Adequately Review Bulger's Medical Records, Did Not Consider His Ongoing Cardiac and Other Medical Incidents, and Did Not Accurately Represent His Medical Condition in Transfer Paperwork, Which May Have Led Medical Staff to Not Appreciate the Seriousness of His Medical Condition

We found that BOP medical professionals did not adequately review Bulger's medical records, did not consider his ongoing cardiac and other medical incidents, and did not accurately represent his medical condition in transfer paperwork. As a result of these performance failures, we found that BOP officials may not have appreciated the seriousness of Bulger's medical condition when making decisions about his medical care level and transfer.

The Coleman Clinical Director told the OIG that he did not review Bulger's medical records before approving the April 2018 transfer request or before changing Bulger's care level from 3 to 2. The Coleman Clinical Director also told the OIG that he believed Bulger should have been classified as medical care level 3 because Bulger was a "ticking bomb, clinically speaking, because of his cardiac issues" and was "an extremely fragile patient because of his age and all of his chronic medical problems," but that he lowered Bulger's medical care level because he was following the "chain of command." However, as noted above, we found that the Coleman Clinical Director's failure to review Bulger's medical records before changing Bulger's medical care level contravened the Southeast Regional Medical Director's request for additional information to support a medical care level 3 classification. Moreover, the Coleman Clinical Director told the OIG, contrary to his testimony that Bulger was a "ticking bomb," that he considered Bulger to be stable because he did not die from a cardiac complication or have an "acute heart attack." The OIG is troubled by the fact that a BOP medical professional would change an inmate's medical care level without reviewing the inmate's medical records, and suggest that a patient with an extensive and ongoing cardiac history was stable because he did not die or have an acute heart attack.

The Coleman PCP and the Coleman Assistant Health Services Administrator (AHSA) both told us that when they received the CHP's August 2018 decision that Bulger should be classified as medical care level 3, they disagreed and instead agreed with the Southeast Regional Medical Director that Bulger should be classified as medical care level 2 because they believed Bulger was medically stable. We found that this assessment did not take into account Bulger's medical records, which reflected that between the Southeast Regional Medical Director's recommendation in April 2018 and the CHP's decision on August 8, 2018, Bulger had three more cardiac incidents—on May 7, June 28, and July 10—and in each instance Bulger reportedly had an abnormal EKG; was treated with oxygen, nitroglycerin pills, and sometimes aspirin; and was assessed as requiring hospital treatment.

In addition, both the Coleman AHSA and the Coleman PCP failed to accurately represent Bulger's medical condition in transfer paperwork. Specifically, the Coleman AHSA wrote in the September 6, 2018 transfer request that Bulger's atrial fibrillation had "resolved 12/4/2013." We found this statement to be misleading because, although Bulger underwent a medical assessment on December 4, 2013, which indicated that Bulger's atrial fibrillation was in remission, he had later EKGs and assessments that indicated current atrial fibrillation. Specifically, this statement was inconsistent with multiple more recent entries in Bulger's medical record, including paperwork stating that Bulger was originally placed at Tucson in January 2014 as a medical care level 3 inmate due to atrial fibrillation requiring anticoagulation therapy, transferred to Coleman in September 2014 still as a medical care level 3 inmate, transported to Leesburg Hospital due to "ATRIAL FIB, W/UNCONTROLLED VENTRICULAR RATE" in December 2015, and medically assessed as suffering from "[a]trial fibrillation with rapid ventricular response" in both February 2016 and April 2017. We

found this misleading statement to be material to the transfer decision because BOP policy provides that treatment of atrial fibrillation with anticoagulation therapy for greater than 6 to 12 months requires a medical care level 3 classification. Further, we found the statements in the September 6 submission that Bulger was “stable” and “no longer has any additional follow ups” were misleading given that Bulger sought medical care in each of the 4 preceding months, and three of those incidents resulted in a determination that hospital treatment was necessary due to Bulger’s cardiac issues. We similarly found that this information was material to the transfer decision because frequency of treatment is a factor to be considered in assessing medical care level. Yet, the Coleman AHSA did not include Bulger’s recent medical history in the transfer request, nor did she acknowledge the fact that the CHP had recently advised Coleman, through OMDT, that Bulger was a medical care level 3 inmate. The Coleman PCP then repeated the very same misleading statements and omissions in his September 14, 2018, transfer summary.

The Coleman PCP and the Coleman AHSA downplayed Bulger’s cardiac incidents by stating that his chest pain was typically induced by situational anxiety and that he was taking only “routine medication.” The Coleman AHSA further described the decisions by medical staff to send Bulger to the hospital as “us being cautious, because of who he was,” and the Coleman PCP indicated that he believed Bulger only complained about chest pain to “get some time out of the SHU.” The OIG did not credit these statements because Bulger was hospitalized in connection with cardiac incidents on six separate occasions between the date his anticoagulation therapy was discontinued in 2015 and the date of his transfer in 2018, the BOP recommended that he be hospitalized but he refused treatment on multiple other occasions during the same time period, and in 2018 alone Bulger was hospitalized twice and recommended to be hospitalized on four other occasions. Given the expense of sending an inmate to the hospital, the OIG does not believe that the BOP would send an inmate to the hospital needlessly.

The BOP Medical Director told us that he reviewed Bulger’s BOP medical records and that he assessed Bulger to be a medical care level 2 inmate in October 2018 because Bulger had “not been on Warfarin for...going on three and a half years now... He’s had no atrial fibrillation that [the BOP Medical Director] could find, anywhere, documented in the medical record,” and because Bulger’s medical condition was described as stable. We found that, while this explanation was consistent with the misleading information in the transfer paperwork, it was inconsistent with available documentation in Bulger’s BOP medical record and other records, including paperwork from December 25, 2015—less than a year after Bulger’s anticoagulation therapy was discontinued—indicating that Bulger was transported to Leesburg Hospital due to “ATRIAL FIB, W/UNCONTROLLED VENTRICULAR RATE,” and EKGs and other hospital paperwork from both February 2016 and April 2017 indicating that Bulger was suffering from “atrial fibrillation with rapid mean ventricular response” at those times. Moreover, in the intervening 18 months between the April 2017 incident and the BOP Medical Director’s October 2018 assessment, the available BOP medical records reflect that Bulger sought treatment for chest pains or difficulty breathing 13 times, was either hospitalized or recommended for hospitalization due to cardiac issues on 11 of those occasions, and repeatedly had abnormal EKGs indicating heart problems.⁴¹ These incidents were not referenced in the

⁴¹ After reviewing a draft of this report, the BOP Medical Director wrote in a response to the OIG: “an ‘abnormal EKG’ can be caused by something completely benign or something very serious;” the terminology “13 additional cardiac and pulmonary incidents” is “sufficiently vague that it is not possible to determine their significance or severity;” and “Inmates are seen not uncommonly for chest pain. This symptom needs to be taken seriously but can be caused by a myriad of issues, some of which are more benign than others, and doesn’t automatically imply a Care Level 3 classification.” As noted above, at least two EKGs following the discontinuation of anticoagulation therapy specifically

(Cont’d.)

transfer paperwork and the BOP Medical Director did not indicate that he considered them in connection with his care level assessment.

In addition, we found that the failure to accurately present Bulger's medical condition in transfer paperwork was material to the decision by Hazelton staff not to object to Bulger's transfer there. Specifically, the Hazelton AHSA told us that she relied on the information in the transfer paperwork and that she would have resisted Bulger's transfer to Hazelton had she been aware of Bulger's more recent medical history.

We concluded that the failure by some BOP officials to adequately review Bulger's medical records and consider his ongoing cardiac and other medical incidents led to transfer paperwork that did not accurately represent Bulger's medical condition, which in turn may have led to BOP officials to not appreciate the seriousness of Bulger's medical condition when making decisions about his medical care level and transfer. These performance failures undermined the reliability of the decisions to lower Bulger's care level and transfer him to Hazelton. Therefore, we recommend that the BOP consider modifying its policies to require BOP personnel to review an inmate's medical records before making decisions that impact the inmate's medical care.

C. The BOP Does Not Regularly Update Inmates' Medical Care Levels

The BOP lowered Bulger's medical care level from 3 to 2 in April 2018 purportedly based on the fact that Bulger's anticoagulation therapy had been discontinued in March 2015, over 3 years earlier. BOP officials told us that Bulger's medical care level was not reassessed in 2015 when his anticoagulation therapy was discontinued because the BOP generally does not update an inmate's medical care level until the need arises for the inmate to transfer. We found that not reassessing medical care levels contemporaneous with events that could trigger a change in care level has the potential to result in delayed transfers of inmates and improper alignment of resources to inmate populations within the BOP. We also found that, in Bulger's case, the change in care level at the time of transfer led to suspicions that Bulger's care level was being lowered for an improper purpose, such as to expedite his removal from Coleman.

Accordingly, we recommend that the BOP modify its policies to require reviews of inmate care levels either upon specified changes in inmates' medical care or at regular intervals, such as annually, and reassess its policies to incorporate enhanced communication among clinical providers involved in inmate medical care level decisions.

II. The BOP Medical Guidelines are Flawed and Lack Clarity

We found that the BOP Medical Guidelines had flaws and lacked clarity. Specifically, we found that the BOP's decision to lower Bulger's medical care level was based on one of at least two plausible interpretations of the medical care level guidelines. However, we were astonished by the fact that lowering Bulger's medical care level was based on a plausible interpretation of the guidelines, given that Bulger was

indicated that Bulger suffered from "atrial fibrillation with rapid mean ventricular response," and BOP medical records reflect that BOP medical professionals did assess Bulger on each of the 13 occasions when he had a cardiac and pulmonary incident following the April 2017 incident and that Bulger was routinely recommended for hospitalization and additional cardiac treatment.

89, used a wheelchair, continued to have serious heart conditions, and had frequent cardiac and other medical incidents through the date of his transfer.

The 2014 Medical Care Level Guidelines stated that an inmate who had been receiving anticoagulation therapy for greater than 6 to 12 months was required, by default, to be classified as medical care level three. For inmates whose diagnoses or medical treatments did not fit into one of the default medical care level classifications, the 2014 Medical Care Level Guidelines stated that the inmate's medical care level should be determined by applying the Medical Classification Algorithm, which generally required an inmate receiving clinical interventions more than once per month to be classified as level 3 and an inmate who could be managed with clinical interventions every 1 to 6 months as level 2. The 2014 Medical Care Level Guidelines also stated that the BOP should reclassify inmates when they receive "intensive clinical intervention beyond a limited duration," because such intervention is considered "chronic or indefinite." The guidelines listed criteria for considering a condition chronic, including when the inmate has "provider contacts" daily to monthly for greater than 6 months for the same condition, but did not clarify how the guidelines regarding chronic conditions should be reconciled with the Medical Classification Algorithm.

Applying these guidelines, several BOP medical practitioners, including the BOP Medical Director, the Southeast Regional Medical Director, Bulger's Coleman PCP, and the Coleman AHSA, believed that Bulger's medical care level was appropriately lowered to 2. They based this assessment on the facts that (1) Bulger, who had previously been classified as a medical care level 3 inmate due to his treatment with anticoagulation therapy, had not received anticoagulation therapy in several years by the time of his proposed transfer; (2) Bulger did not meet any of the other default criteria for a medical care level 3 classification; and (3) once Bulger did not meet the default criteria for a medical care level 3 classification, it was appropriate to apply the 2014 Medical Classification Algorithm, which they believed resulted in a medical care level 2 classification. However, the CHP recommended that Bulger remain as a medical care level 3 inmate because Bulger's anticoagulation therapy was discontinued only as a result of Bulger's noncompliance with treatment.

We found that, as currently written, there could be reasonable differences of opinion as to the appropriate medical care level for Bulger under the guidelines, and that both the CHP's assessment in favor of care level 3 and the assessment by the other medical providers in favor of care level 2 were plausible. Specifically, it was unclear whether the default classification for anticoagulation therapy applied because the guidelines were silent as to how an inmate's refusal of recommended medical treatment should impact the inmate's medical care level classification. Further, even assuming the default classification did not apply, the appropriate classification was subject to interpretation. Applying the 2014 Medical Classification Algorithm, Bulger was generally seen monthly to every 6 months during the 18 months before his transfer, which would make him a medical care level 2.⁴² However, his condition also could have been considered chronic

⁴² Specifically, during the year before the completion of the original April 2018 transfer request, Bulger went to the Health Services Department complaining of chest pains nine times in 12 months and was admitted to the hospital on two of these instances, once in April 2017 and once in February 2018. While there were some months during which he received clinical intervention twice in 1 month, there were also months when he did not go to the Health Services Department complaining of chest pain at all. During the next 6 months, from the completion of the original transfer form in April 2018 through Bulger's transfer to Hazelton in October 2018, Bulger went to the Health Services Department complaining of chest pains or shortness of breath six times—approximately once per month—and was admitted to the hospital on one of those occasions, in September 2018.

during the final 6 months because he was seen approximately monthly during that time and on one occasion—between June and July 2018—only about 12 days passed between visits. Considering Bulger’s condition to be chronic would have warranted an increase in his care level classification.

We were very concerned that the BOP’s Medical Care Level Guidelines could lead to the lowering of medical care level for an inmate of Bulger’s age and medical condition because he was refusing medical treatment. Specifically, we found that the CHP’s explanation that the discontinuation of anticoagulation therapy does not “eradicate” the diagnosis of atrial fibrillation and in fact makes an inmate “more of a risk for medical problems” was eminently logical. We also were persuaded by the CHP’s and the OMDT Designator’s view that that it would be wasteful to send an inmate to a medical care level 2 facility, only to realize shortly thereafter that the facility was not able to manage the inmate’s care or that the inmate changed his mind about complying with treatment. Further, we found that these views were consistent with the facts that Bulger was hospitalized twice in 2018 alone; in each of the 6 consecutive months just prior to his transfer (from May to October), Bulger sought medical care for cardiac concerns or shortness of breath; and five of those six incidents resulted in an abnormal EKG; treatment with oxygen, nitroglycerin pills, and sometimes aspirin; and an assessment that Bulger should be taken to a hospital for treatment. The Hazelton AHSA told the OIG that it would have been helpful to know about the recent hospitalizations before Bulger’s transfer because sending an inmate to the hospital can be difficult due to staffing issues. She further stated that, had she been aware of the more recent medical history, she would have resisted Bulger’s transfer. We found it troubling that the application of the BOP’s medical care level guidelines could result in the lowering of Bulger’s medical care level under these circumstances, and, as a result, we believe that the BOP should closely examine its medical care level guidelines for needed clarity and improvement.

In addition, we believe that the BOP should specifically clarify the Medical Care Level Guidelines as they pertain to an inmate’s noncompliance with recommended medical treatment. The 2014 Medical Care Level Guidelines did not address how an inmate’s noncompliance with treatment should impact the inmate’s medical care level classification. The current 2019 Medical Care Level Guidelines partially address this issue by stating, “Ordinarily, inmate refusal of treatment solely for the purpose of reducing their care level will not result in a reduction of their care level so long as the underlying condition requiring that treatment persists.” However, the 2019 Medical Care Level Guidelines do not address how an inmate’s refusal of treatment for purposes other than “reducing their care level” should impact the inmate’s care level classification. The 2019 Medical Care Level Guidelines also do not address how the BOP should determine whether an inmate refused medical treatment “solely for the purpose of reducing their care level” or for another reason.

Accordingly, we recommend that the BOP (1) closely examine the Medical Care Level Guidelines and Medical Classification Algorithm for needed clarity and improvement; and (2) modify the Medical Care Level Guidelines to address how an inmate’s noncompliance with medical treatment should impact the inmate’s medical care level classification, regardless of the patient’s reason for noncompliance.

III. BOP Personnel Openly Discussed Bulger’s Transfer in the Presence of Inmates, Which Was Contrary to BOP Policy and Placed Bulger at Risk

The OIG concluded that it was likely that multiple BOP personnel openly spoke about Bulger’s transfer in the presence of Hazelton inmates, which was contrary to BOP policy and enhanced Bulger’s risk of harm by other inmates. We make two recommendations for improvements to BOP policies to address this concern.

The BOP Inmate Security Designation and Custody Classification Program Statement (Designation Program Statement) prohibits the release of an inmate's designation (initial placement) and redesignation (transfer) information "to the general public" for security reasons, until the inmate has arrived at the designated facility. In addition, the BOP Standards of Conduct for employees prohibits and subjects employees to discipline for the unauthorized dissemination of official information and the release of information that could breach the security of an institution.

On October 26, 2018, several media outlets reported that Bulger had been moved to the Oklahoma FTC, citing the BOP website's inmate locator portal as the source of the information. In addition, two Hazelton inmates told the OIG that, prior to Bulger's arrival, it was well known among Hazelton inmates that Bulger was transferring to Hazelton. This testimony was corroborated by an inmate phone call and several inmate emails reviewed by the OIG. Moreover, one inmate told the OIG that the entire prison knew Bulger was coming to Hazelton before his arrival, that multiple officers spoke openly about Bulger coming to Hazelton as if they were "talking about a football game," and that both the inmates and staff were speculating about—and inmates were betting money on—how long Bulger would stay alive at Hazelton.⁴³

We found, based on the inmate communications and testimony described above, that it was likely that multiple BOP personnel openly spoke about Bulger's transfer in the presence of Hazelton inmates in violation of BOP policy. However, we identified well over 100 BOP officials who were aware of Bulger's impending transfer. This widespread knowledge among BOP officials made it impossible for us to determine which BOP officials were responsible for the improper disclosure of information about Bulger to inmates.

We believe that the risk that inmates will learn of impending transfers of other inmates is enhanced by the fact that BOP's standard procedures allow numerous BOP officials to be aware of transfers in advance. Moreover, inmate knowledge of impending transfers places inmates at risk because inmates have the opportunity to plan assaults or other unlawful acts before the transferring inmate's arrival and before staff can assess the transferring inmate's adjustment to the institution. Based on these concerns, we recommend that the BOP consider limiting the number of BOP personnel who receive notification of an inmate's impending transfer, especially for Broad Publicity and other high-risk inmates. For example, the BOP should consider discontinuing distribution of transfer information to group email inboxes accessible by numerous personnel, many of whom would not have reason to be notified of the transfer. In addition, we recommend that the BOP reassess and clarify the BOP's policies regarding maintaining the confidentiality of information regarding designations, redesignations, and transfers of inmates, and provide training to BOP employees on these policies.

⁴³ According to this inmate, one particular SIS officer, in a "joking manner," told four or five inmates in a Hazelton hallway that they were going to be "getting some company" because Bulger "decided to threaten an officer" at Coleman. The SIS officer denied that he made this statement, and the inmate was unable to provide any names, other than a first name, of other inmates who heard this SIS officer make this statement. In addition, we found that this inmate had a potential motivation to fabricate information about this SIS officer, because he believed that the SIS officer "caused [him] to get fired" from his prison job and took an action that led to Inmate 3 being assaulted by other inmates. We therefore did not find sufficient evidence to conclude that this SIS officer committed misconduct.

IV. The Steps Taken By the BOP to Consider Security Risks in Connection with Bulger's Transfer Were Lacking

While we found that the process followed by BOP employees to select Hazelton was generally consistent with federal law and BOP policy, we also concluded that the steps the BOP took to consider security concerns in connection with the transfer of Bulger, a high-risk inmate, were lacking.

First, we found that while OMDT received the required approvals from the Inmate Monitoring Section (IMS), DSCC, and a senior official within BOP's Central Office (the Senior DAD), these offices provided their approval quickly and, other than assessing whether any of Bulger's separatees were housed at Hazelton, it was unclear what, if any, particularized steps they took to assess whether Bulger faced dangers at Hazelton based on his specific circumstances, including his notoriety and reputation as a cooperator, membership in a gang, and affiliation with organized crime. Indeed, the DSCC Operations Manager told us that his focus was on separatees and that he viewed Bulger as "just another old gangster." In addition, both the Operations Manager and the DSCC Section Chief told us that they did not view Bulger as a cooperator, despite being aware of Bulger's prior relationship with then FBI agent John Connolly. Based on these statements, we found that DSCC did not adequately consider Bulger's notoriety or the fact that he was widely perceived as an FBI informant—factors that placed Bulger at higher risk of harm by other inmates—when approving his designation to Hazelton. We further found that BOP policy does not contain specific steps for DSCC or Central Office to take or criteria to consider before approving the transfer of a Central Inmate Monitoring (CIM) inmate, other than identifying separatees.

We were told that Bulger was not assessed by a Senior Intelligence Designator or the Central Office's Intelligence Section before transfer, because Bulger was not identified in BOP systems as a member of an STG and therefore BOP policy did not require a specialized intelligence assessment.⁴⁴ While "Organized Crime" is listed as an STG in the BOP's STG roster, Bulger was not identified in BOP systems as a member, leader, associate, former member, or drop-out of Organized Crime. We were troubled by this, given Bulger's well-known history as an organized crime leader. In addition, the Winter Hill Gang was not specifically listed as an STG. Moreover, in 2014 before Bulger was transferred from Tucson to Coleman, a BOP Senior Intelligence Designator reviewed Bulger's transfer packet. The Senior Intelligence Designator recommended against Allenwood in 2014 because Allenwood staff felt that Bulger "would not be a good fit" due to Allenwood's "population." The Senior Intelligence Designator instead recommended Coleman since Coleman had "only...one organized crime inmate who is a [sic] ex [law enforcement officer] and worked for the Luchese crime family." We found this history to be significant, given testimony we received that at the time of Bulger's transfer to Hazelton, there were at least two associates of organized crime at Hazelton,

⁴⁴ Senior Intelligence Designators are BOP employees who are specially trained to conduct intelligence assessments and assess risks by other inmates. At the time of Bulger's transfer to Hazelton, the BOP employed two Senior Intelligence Designators. BOP officials told us that, while these Senior Intelligence Designators were generally available to the DSCC and OMDT designators for consultation, BOP practice did not require designators to refer inmate-transferees to a Senior Intelligence Designator unless the inmate was a member of an STG, such as a large-scale national gang or known prison gang. According to Designation Guidance issued by the BOP on March 8, 2021, and April 6, 2021, there are still no written requirements for consultation with a Senior Intelligence Designator before the transfer of a Broad Publicity inmate that is not identified with a "Member, Drop, or Inactive STG assignment." In addition, while BOP officials told us that after Bulger's death the BOP hired two additional Senior Intelligence Designators, for a total of four, the BOP has since reduced the number of Senior Intelligence Designators on staff to three.

including one that was housed in the unit where Bulger was placed. The fact that a Senior Intelligence Designator considered connections to organized crime when assisting with Bulger's 2014 transfer suggests that a Senior Intelligence Designator would have similarly considered connections to organized crime—and potentially objected to Hazelton on that basis—if asked to assist in 2018. Moreover, the Senior Intelligence Designator who was tasked with reviewing Bulger's designation to Hazelton following Bulger's death expressed concerns about Bulger transferring from an institution that had a reputation for being relatively safe with lower gang activity to an institution that had a reputation for being dangerous, and he questioned whether DSCC was “using all our tools” to assess inmate risk.

In addition, we found that Hazelton staff who reviewed Bulger's transfer materials prior to his arrival did little to assess his appropriateness for the institution. The Designation Program Statement states: “Institution staff should carefully review the management of [Disciplinary and Close Supervision] cases on an individual basis, applying sound correctional judgment that considers the safety and security of the inmate, the institution and its staff and the community.” The Designation Program Statement further states that the CMC at the designated institution is responsible for monitoring the pending inmate arrivals and notifying the DSCC of any errors in the designation. Despite these guidelines, the Hazelton CMC and Deputy CMC indicated that they were not involved in extensive discussions regarding Bulger's transfer. The Deputy CMC stated: “[W]hen you have 150 [or] 200 inmates in your pipeline, once you look at them once...you move on.” Further, the Hazelton CMC did not give significant consideration to the presence of other organized crime affiliates at Hazelton. Although he acknowledged that Hazelton had “a fair number of Boston and Northeast guys” including inmates who were involved in “organized crime,” he stated that this did not impact his view of the appropriateness of Bulger's placement at Hazelton, because “every penitentiary has guys that are in organized crime.”⁴⁵ Similarly, the SIS technician told us that while he considered the presence of organized crime affiliates at Hazelton, he did not object because there was no intelligence to show that these inmates posed a specific threat to Bulger. The SIS technician also stated that it was rare for him to raise security concerns regarding the transfer of inmates to Hazelton, that he “assumed” Bulger was “good to go” since “nobody else” raised a concern, that there was no particular plan for Bulger, and that Bulger was treated “like any other inmate.”

We also found that there were no policies to ensure that security factors were considered in selecting units for transferees, and that the presence of organized crime affiliates in Bulger's unit was not given significant consideration by BOP staff. BOP officials told us that the unit managers decide among themselves where inmates will be housed, and that higher level officials do not review or approve those assignments. Unit Manager 2 told us that he asked for Bulger to be assigned to one of his units, because he believed he had Hazelton's three strongest case managers and that his units would therefore be best able to handle a high-profile inmate like Bulger. However, Unit Manager 2 acknowledged that he was not a “gang expert” and was unaware of any concerns that another affiliate of organized crime was in the same unit to

⁴⁵ After reviewing a draft of this report, the CMC wrote: “I believe there is a misunderstanding regarding the role of the Complex Case Management Coordinator. I may have offered insight and comment; however, the responsibility for pre-arrival screening for a specific facility within a complex falls to the Deputy CMC assigned to that position. As the report indicates, the Deputy CMC provided the designation materials to multiple departments with little to no feedback regarding a specific threat. DSCC did not ordinarily change a designation unless a specific threat was established. To my knowledge, no specific threat was identified by any of the parties the Deputy CMC requested input from, so nothing was raised with DSCC.” The OIG did not find that the CMC violated any specific BOP policies. Rather, the OIG's concerns are that the efforts by BOP staff as a whole to prepare for Bulger's transfer from a security perspective and the BOP's policies regarding such efforts were minimal at best.

which Bulger was assigned. He stated that he relied on SIS to assess that type of risk. While we did not find evidence that Unit Manager 2 had improper motivations or violated any policies by specifically requesting Bulger, we found that a Unit Manager hand-selecting an inmate could create the appearance that he is making the request for an improper reason, especially in the absence of written policies or procedures setting forth the unit managers' roles and responsibilities in assigning new inmates to units and cells.

Finally, we found that Hazelton staff conducting Bulger's intake following his arrival primarily deferred to Bulger's preferences, rather than exercising independent judgment in assessing whether Bulger faced dangers in the general population. Specifically, the SIS Technician told us that his intake of Bulger lasted approximately 2 to 3 minutes and that Bulger stated that he wanted to be placed in the general population. The SIS Technician stated that inmates are placed in the general population at Hazelton, unless they state that they want protection when asked during their screening. Similarly, the Hazelton Supervisory CSS told the OIG that he was told that Bulger was "adamant" that he wanted to enter the general population, did not want protective custody, and "wanted to get out of the SHU." The Specialist further said that "nine times out of ten if the inmate does not request [protective custody], we don't usually make them take it." However, Bulger had just spent 8 months in the SHU at Coleman, and, as noted above, was mentally and physically deteriorating during that time. We believe that Bulger's adamance against being placed in protective custody at Hazelton may have been influenced by his recent experience in the SHU at Coleman.

The Senior DAD of CPD described the inmate designation and transfer process as a three tier process—the first tier being the initial designation by DSCC and OMDT the second tier being the review by the receiving institution prior to transfer, and the third tier being the intake at the receiving institution—with each tier serving as a check on the others to determine whether a particular institution is appropriate for a particular inmate.⁴⁶ However, as discussed above, in Bulger's case, multiple officials in this three-tier

⁴⁶ After reviewing a draft of this report, the Senior DAD of CPD provided further clarification on the three tier process. He wrote: "DSCC and OMDT (OMDT for medical cases) look at the broad picture. They make sure...no separatees (whether individuals or groups of individuals) are at a specific institution. They look at the inmate's [paperwork] and check to see where all of his separatees are at. [They] also know where all the gangs are at, and which yards (institutions) house what groups. They also ensure the institution is the right medical and psychological Care Level. From here, DSCC (and OMDT) make the initial designation. This is the first tier. Once designated, the very next work day the CMC (Case Management Coordinator) runs their daily...logs and sees who has just been designated to their institutions. They then do a similar review that DSCC (and OMDT) has just done. Only at the institution level, the CMC (with assistance from the SIS shop) will be more in the "know" of any specific or current/local trends and concerns with local inmates. Basically, they are double-checking the DSCC (and OMDT) to make sure that inmate is appropriate for that compound. If he is not, then the CMC notifies the DSCC to take another look and/or consider somewhere else. This is the second tier review. Then, upon the inmate arriving at the designated institution, every inmate goes through a thorough in-person, intake screening process with the Unit Team, SIS, medical and psychology. This includes a thorough social screening with the inmate and in-person with the inmate. The Unit Team, again double checks Separatees (individuals and groups)...just in case one showed up since the last (2nd Tier) review. SIS also interviews the inmate regarding STG and gang affiliations to ensure the inmate is appropriate for the yard, and then finally both medical and psychology do a thorough medical and psych screening (in-person) to ensure the inmate is medically and mentally appropriate to go to the yard. This is the final and third tier of the review process. At any point during this third tier review, any staff member can decide the inmate is not appropriate for the compound and place him in SHU, until they can get him redesignated elsewhere. Also, if the inmate himself indicates he can't walk the compound at the intake screening process, the inmate can also be placed into SHU to give them more time to review him for appropriateness for that yard, and/or to get him redesignated elsewhere."

process told us that they deferred to other officials or did not object because no one else objected. In our view, one tier cannot serve as a check on another tier if it is essentially deferring to another tier's judgment.

Based on these concerns, we recommend that the BOP reassess its policies regarding assessing and ensuring the security of inmates at the time of designation, redesignation, and transfer and consider (a) adding specific criteria for BOP officials within DSCC, OMDT, and Central Office to consider before approving the designation and redesignation of Broad Publicity and other CIM inmates; (b) whether changes should be made to the criteria for considering an inmate to be a member, leader, associate, former member, or drop-out of Organized Crime; (c) requiring that additional categories of inmates, such as inmates of a certain level of public notoriety, be referred to Senior Intelligence Designators or the Central Office Intelligence Office, prior to transfer; and (d) adding steps for receiving institutions to take to plan for the arrival of inmates of a certain level of public notoriety. In addition, we recommend that the BOP create specific procedures for assigning inmates to units within facilities, which may include security considerations, SIS approval, and approval from the warden or other high-level officials.

Chapter 8: Conclusions and Recommendations

The OIG investigated the facts and circumstances surrounding the BOP's transfer of Bulger from Coleman to Hazelton. While we did not find that the BOP employees who were involved in his transfer acted with a malicious intent or an improper purpose, we identified serious job performance and management failures at multiples levels within the BOP. For example, we found it deeply troubling that BOP personnel placed an 89-year-old BOP inmate who used a wheelchair and had heart conditions for which medical doctors frequently recommended hospitalization and surgery in a single cell in the SHU for 8 months while it was bureaucratically struggling with deciding how to transfer him to a new facility, and then decided to transfer him to a new facility that provided a lower level of medical care than his prior facility without adequately considering certain aspects of his medical records, including his repeated cardiac and other medical incidents over the preceding several months. This lengthy SHU placement of Bulger in a single cell before his transfer from Coleman caused him to state that he had lost the will to live, and may have affected his persistence upon arriving at Hazelton that he wanted to be assigned to general population.

We also found that, due to BOP's standard procedures, well over 100 BOP officials were made aware in advance of Bulger's impending transfer to Hazelton, and that Hazelton personnel openly spoke about Bulger's upcoming arrival in the presence of Hazelton inmates, which was contrary to BOP policy and resulted in numerous Hazelton inmates being aware of Bulger's transfer to Hazelton days before it occurred. This knowledge among Hazelton inmates subjected Bulger, due to his history, to enhanced risk of imminent harm upon his arrival at Hazelton. Further, we found that minimal efforts to plan for Bulger's arrival at Hazelton from a security perspective enhanced the risk that Bulger would be harmed by other inmates following his transfer.

Based on these concerns, we recommend that the BOP:

1. Reassess its policies to incorporate enhanced communication among personnel involved in inmate transfer decisions.
2. Ensure that its written procedures and practices regarding medical transfer codes and paperwork are consistent.
3. Provide training to BOP staff regarding the transfer process and the proper documents to be used for different types of transfers.
4. Consider modifying its policies to require BOP personnel to review an inmate's medical records before making decisions that impact the inmate's medical care.
5. Modify its policies to require reviews of inmate medical care levels either upon specified changes in inmates' medical care or at regular intervals, such as annually, and reassess its policies to incorporate enhanced communication among clinical providers involved in inmate medical care level decisions.

6. Closely examine the Medical Care Level Guidelines and Medical Classification Algorithm for needed clarity and improvement.
7. Modify the Medical Care Level Guidelines to address how an inmate's noncompliance with medical treatment should impact the inmate's medical care level classification, regardless of the patient's reason for noncompliance.
8. Consider limiting the number of BOP personnel who receive notification of an inmate's impending transfer, especially for Broad Publicity and other high-risk inmates. For example, the BOP should consider discontinuing distribution of transfer information to group email inboxes accessible by numerous personnel, many of whom would not have reason to be notified of the transfer.
9. Reassess and clarify the BOP's policies regarding maintaining the confidentiality of information regarding designations, redesignations, and transfers of inmates, and provide training to BOP employees on these policies.
10. Reassess its policies regarding assessing and ensuring the security of inmates at the time of designation, redesignation, and transfer and consider (a) adding specific criteria for BOP officials within DSCC, OMDT, and Central Office to consider before approving the designation and redesignation of Broad Publicity and other CIM inmates; (b) whether changes should be made to the criteria for considering an inmate to be a member, leader, associate, former member, or drop-out of Organized Crime; (c) requiring that additional categories of inmates, such as inmates of a certain level of public notoriety, be referred to Senior Intelligence Designators or the Central Office Intelligence Office, prior to transfer; and (d) adding steps for receiving institutions to take to plan for the arrival of inmates of a certain level of public notoriety.
11. Create specific procedures for assigning inmates to units within facilities, which may include security considerations, SIS approval, and approval from the warden or other high-level officials.

The OIG has completed its investigation and is providing this report to the BOP to review the performance of the employees as described in this report for any action it deems appropriate. The OIG's investigation did not find evidence of any federal criminal violations. The OIG has shared the results of its investigation with the U.S. Attorney's Office for the Northern District of West Virginia. Unless otherwise noted, the OIG applies the preponderance of the evidence standard in determining whether DOJ personnel have committed misconduct. The U.S. Merit Systems Protection Board applies this same standard when reviewing a federal agency's decision to take adverse action against an employee based on such misconduct. See 5 U.S.C. § 7701(c)(1)(B) and 5 C.F.R. § 1201.56(b)(1)(ii).

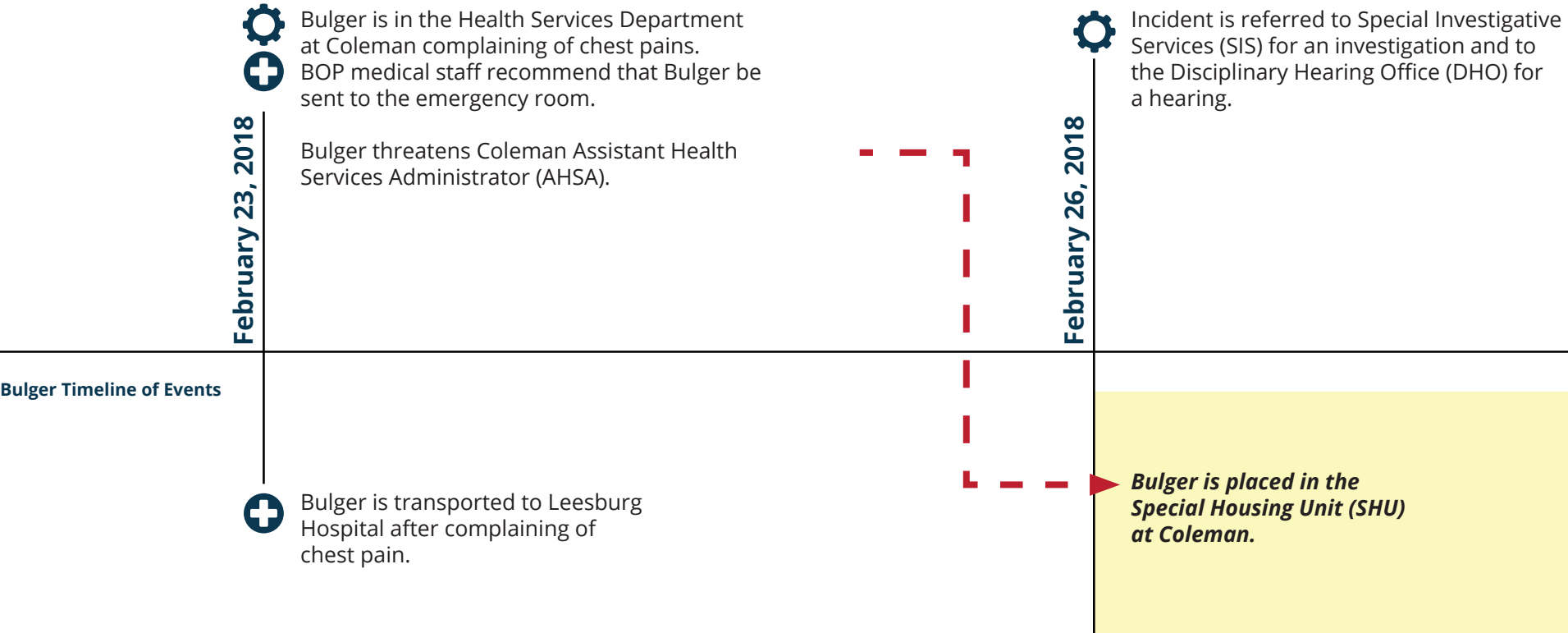
Timeline of Key Events Related to the Transfer of Federal Bureau of Prisons Inmate James “Whitey” Bulger and His Subsequent Death in Custody

In November 2013, James “Whitey” Bulger was convicted in the U.S. District Court for the District of Massachusetts. Following his conviction, the Federal Bureau of Prisons (BOP) placed Bulger at the Metropolitan Detention Center (MDC) Brooklyn as a medical care level 2 inmate. The BOP assigns medical care levels to inmates based on a variety of factors, with medical care level 1 corresponding to inmates with the least medical needs and level 4 corresponding to inmates with the greatest medical needs. While some inmates have medical conditions or receive treatments that require particular care levels to be assigned by default, other inmates are assigned medical care levels based on their frequency of treatment using the BOP’s Medical Classification Algorithm. On November 27, 2013, the Clinical Director at MDC Brooklyn wrote a note in Bulger’s file indicating that Bulger was a medical care level 3 inmate. Following his sentencing in January 2014, the BOP designated Bulger as a medical care level 3 inmate to U.S. Penitentiary (USP) Tucson in Arizona (Tucson), a high security, medical care level 3 institution. On September 3, 2014, Bulger was transferred to USP Coleman II (Coleman), another high security, medical care level 3 institution.

In February 2018, the BOP placed Bulger, who was then 89 years old and used a wheelchair, in Coleman’s Special Housing Unit (SHU), where he was separated from the general inmate population and housed alone in a single cell, after a Disciplinary Hearing Officer determined that Bulger had threatened a BOP nurse at Coleman. This coincided with the beginning of an 8-month effort by Coleman to transfer Bulger to another BOP institution. Coleman staff submitted four transfer requests over the course of those 8 months, while Bulger remained in the SHU and sought medical care for multiple cardiac and other medical incidents, before he was transferred to USP Hazelton in October 2018. On October 30, 2018, the morning after Bulger arrived at Hazelton, BOP staff members found Bulger unresponsive in his cell and he was pronounced deceased that day. The following is a timeline of these events.

February 2018

BOP Timeline of Events



Icon Legend:

BOP Administrative Event

Bulger Healthcare Event

Email Correspondence

Other Relevant Event

March 2018

March 13, 2018

 DHO hearing takes place.

March 16, 2018

 The DHO issues a report finding that Bulger “committed the prohibited act of conduct which disrupts...most like threatening.”

March 27, 2018

 Coleman SIS recommends that Bulger remain in the SHU until he can be transferred to a facility commensurate with his “security and programming needs.”

***As of March 31, 2018,
Bulger has been in
the SHU for 34 days.***

April 2018

April 9, 2018	 Coleman asks the BOP's Office of Medical Designations and Transfers (OMDT) to transfer Bulger to a new medical care level 3 facility. Coleman's submission states that Bulger "poses a threat to a staff member."* OMDT forwards Coleman's request to the Southeast Regional Medical Director.
April 10, 2018	 The OMDT Designator denies Coleman's transfer request based on the Southeast Regional Medical Director's questioning of whether Bulger should continue to be classified as medical care level 3 because Coleman had discontinued Bulger's anticoagulation therapy.** The Southeast Regional Medical Director requests Coleman review and submit more clinical information that would classify Bulger as care level 3.
April 13, 2018	 Without reviewing Bulger's medical records, the Coleman Clinical Director documents in Bulger's medical records that Bulger is now classified as a medical care level 2 inmate.
April 30, 2018	 Coleman submits its second request to transfer Bulger, but this time submits it to the BOP's Designation and Sentence Computation Center (DSCC) rather than OMDT, and seeks to transfer Bulger as a medical care level 2 inmate.

***As of April 30, 2018,
Bulger has been in
the SHU for 64 days.***

*BOP employees told the Office of the Inspector General (OIG) that the use of a medical transfer request was proper, even though the transfer was for a disciplinary event, because BOP guidelines required the use of the medical designation process for all inmates with chronic or acute medical needs, including all medical care level 3 or 4 inmates transferring to a new facility of any care level.

**Bulger had been classified as medical care level 3 due to receiving anticoagulation therapy to treat a heart condition called atrial fibrillation.

May 7, 2018

May 14, 2018



The DSCC denies the second transfer request and advises Coleman that it should have sent the transfer request to OMDT (rather than DSCC).



Bulger seeks medical care for chest pain, has an abnormal EKG, receives outpatient treatment, and is assessed to need further evaluation and treatment. However, Bulger refuses to go to the hospital.

***As of May 31, 2018,
Bulger has been in
the SHU for 95 days.***

June 2018



Coleman submits the third transfer request, this time to OMDT to transfer Bulger as a medical care level 2 inmate.

June 6, 2018

June 28, 2018

***As of June 30, 2018,
Bulger has been in
the SHU for 125 days.***



Bulger again seeks medical care for chest pain, has an abnormal EKG, receives outpatient treatment, and is assessed to need further evaluation and treatment. However, Bulger refuses to go to the hospital.

July 10, 2018

July 20, 2018



The OMDT Designator has concerns about transferring Bulger as a medical care level 2 inmate (rather than level 3) given Bulger's "complex cardiac history" and his multiple hospital visits. Accordingly, the OMDT Designator sends the third transfer request to the BOP Chief of Health Programs (CHP), seeking his guidance on whether Bulger should be transferred as a medical care level 2 or 3 inmate.

July 24, 2018



The CHP responds to the OMDT Designator that Bulger's "continued refusal [of medical treatment] does not change his care level designation. He remains a [medical care level] 3 and for medical, as well as medical-legal reasons, he should be confined in a [medical care level] 3 (or [medical care level] 4) institution."

***As of July 31, 2018,
Bulger has been in
the SHU for 156 days.***



Bulger again seeks medical care for chest pain, has an abnormal EKG, receives outpatient treatment, and is assessed to need further evaluation and treatment. However, Bulger refuses to go to the hospital.

August 2018



August 8, 2018

The OMDT Designator denies the third transfer request based on the CHP's instruction that Bulger should be designated as a care level 3 inmate. The OMDT Designator instructs Coleman to resubmit the transfer request as a level 3.

The Coleman Deputy Case Management Coordinator

(CMC) emails the OMDT Designator seeking further guidance: "There has been some confusion and a lot of back and forth trying to designate this inmate, but he has threatened our staff and due to his age, we can no longer continue to house him in Special Housing Unit."



August 14, 2018

The Coleman AHSA emails the Southeast Regional Medical Director, the Coleman Clinical Director, and Bulger's Coleman primary care physician (PCP) seeking guidance on Bulger's transfer. She does not receive a response.

August 16, 2018

As of August 31, 2018, Bulger has been in the SHU for 187 days.



Bulger seeks medical care for shortness of breath.

September 2018



September 6, 2018

Coleman does not follow the August 8 instruction to resubmit as a medical care level 3 transfer. Instead, the Coleman AHSA prepares a fourth transfer request, again requesting to transfer Bulger as a medical care level 2 inmate.

The request states that Bulger's atrial fibrillation had "resolved 12/14/13" and that Bulger is stable, but does not mention: records stating that Bulger experienced atrial fibrillation in 2015, 2016, and 2017; Bulger's 2018 medical, including cardiac, incidents; or the CHP's recent instructions.



September 14, 2018

Bulger's Coleman PCP signs a transfer summary supporting the fourth transfer request that repeats the language used by the AHSA.



September 17, 2018

The Coleman Deputy CMC emails the fourth transfer request and the transfer summary to OMDT.

September 19, 2018

September 27, 2018

As of September 30, 2018, Bulger has been in the SHU for 217 days.



Bulger is transported to Leesburg Hospital after complaining of chest pain.



Bulger undergoes a Psychology Services Suicide Risk Assessment in the SHU. The assessment states that he has "lost the will to live," noting that "he is 89 years old and has been housed in [the] SHU for 7 months."

October 2018 (10/1-10/7)

October 3, 2018	 	At 11:00 a.m., the OMDT Designator emails the fourth transfer request to the BOP Medical Director, writing, "There has been some disagreement on this inmates [sic] Care Level 2 versus 3. Please review and advise, thanks." Shortly thereafter, the BOP Medical Director approves Bulger's	transfer as a medical care level 2 inmate. At 2:28 p.m., the OMDT Designator emails a list of four potential institutions to the Witness Security Unit (WITSEC) for clearance. At 2:37 p.m., an official within the WITSEC unit responds that there are no WITSEC concerns with any of the proposed institutions.
	October 4, 2018	 	At 1:17 p.m., the OMDT Designator emails the list of potential institutions, noting a preference for USP Hazelton (Hazelton), to the Operations Manager over the DSCC designators, for review.
October 5, 2018	 	At 11:56 a.m., the Operations Manager forwards the OMDT Designator's email to the Senior Deputy Assistant Director (DAD) of the BOP's Correctional Programs Division (CPD) and writes, "I concur with the recommendation by medical for [Hazelton]."	At 12:14 p.m., The Senior DAD writes back to the Operations Manager: "I concur with [Hazelton]."

As of October 7, 2018, Bulger has been in the SHU for 224 days.

October 2018 (10/8-10/14)



October 8, 2018
The OMDT Designator sends an email to 10 general BOP mailboxes, at least some of which are accessible by multiple individuals, stating that Bulger has completed treatment at Coleman and has been redesignated to Hazelton as a medical care level 2 inmate.



October 9, 2018
The Hazelton Deputy CMC forwards the OMDT Designator's October 8 email to more than 58 Hazelton email addresses, 2 of which appear to be general email inboxes accessible by multiple individuals. No one at Hazelton expresses any concern with Bulger's transfer,

despite that there are other associates of organized crime at the institution, including one in the unit where Bulger is later assigned.

October 11, 2018

As of October 14, 2018, Bulger has been in the SHU for 231 days.


Bulger again seeks medical care for chest pain, has an abnormal EKG, receives outpatient treatment, and is assessed to need further evaluation and treatment. However, Bulger refuses to go to the hospital.

*As of October 21, 2018,
Bulger has been in the
SHU for 238 days.*

October 2018 (10/22-10/28)

October 23, 2018

October 24, 2018



The Justice Prisoner and Alien Transportation System (JPATS) sends an email to an unknown number of individuals attaching the "Manifest" of BOP inmates, including Bulger, that are scheduled to be transferred on October 29, 2018.

October 25, 2018



A Hazelton inmate sends an email to an individual at an external email address stating: "Hey, forgot to tell u [sic] Whitey B. the celebrity is coming here. U [sic] want his auto graph [sic]??? I hear he sells it?".

An email is sent from the Hazelton mailbox "HAZ/ISM Movement" to over 100 individual Hazelton employee email addresses and several group email boxes attaching a list of 17 inmates, including Bulger, scheduled to arrive at Hazelton on October 29, 2018.

October 26, 2018



Several media outlets report that Bulger had been moved to the Oklahoma FTC, citing the BOP website's inmate locator portal as the source of the information.

October 27, 2018



An individual sends an email from an external email address to a Hazelton inmate describing historical information related to Bulger and the Winter Hill Gang.

As of October 23, 2018, Bulger has been in the SHU for 240 days.



Bulger departs Coleman and is taken to the Oklahoma Federal Transfer Center (FTC) en route to Hazelton.

"Hey, forgot to tell u [sic] Whitey B. the celebrity is coming here. U [sic] want his auto graph [sic]??? I hear he sells it?"
—An inmate email to an external individual

October 2018 (10/29)

October 29, 2018



At 8:08 a.m., a Hazelton inmate states on a personal phone call that Whitey Bulger will be arriving that night and that the inmates "got a heads-up."



At 8:33 p.m., a Hazelton inmate writes in an email, "if i[sic] dont [sic] call you tomorrow then we are locked down for probably 30 days cause [sic] we got word whitey [sic] bulger [sic] is coming to the yard tonight.. you [sic] remember him as the boig [sic] boston [sic] irish [sic] mobster leader who was just caught afew [sic] years ago..well hes[sic] been a government witness for 20 years aso[sic] yeah you already know...."



At approximately 6:00 p.m., Bulger arrives at Hazelton. Upon his arrival, Bulger states that he wants to be placed in the general population.



At 8:48 p.m., Bulger is escorted into the F-1 Housing Unit, after the other inmates in the housing unit have been secured in their cells in preparation for the 9:00 p.m. institutional count. At around 9:00 p.m., Bulger is secured in his cell.

October 2018 (10/30)

October 30, 2018



At 5:00 a.m., Hazelton staff conduct the 5:00 a.m. count. By approximately 6:10 a.m., the Housing Unit Officers unlock the cells for Bulger's housing unit. Video surveillance shows that Bulger's cellmate departs the cell at 6:16 a.m.



At 7:37 a.m., a correctional officer conducts a round but does not enter Bulger's cell.



At 8:13 a.m., a shift change occurs and another correctional officer can be seen conducting a round.



At 8:24 a.m., BOP staff calls for an ambulance. At 8:45 a.m., the ambulance arrives and transports Bulger to the Health Services Department.



Video surveillance shows that at approximately 6:19 a.m., two individuals enter Bulger's cell, close the door behind them, and depart at 6:26 a.m.



At 7:26 a.m., Bulger's cellmate enters Bulger's cell and immediately exits with laundry bags of property.



At approximately 8:21 a.m., BOP staff finds Bulger unresponsive in his bunk, with no pulse and visible injuries to his head and face, consistent with having been involved in a physical altercation. BOP staff immediately initiates life-saving measures.



At 9:04 a.m., Bulger is pronounced deceased.

Appendix B: The BOP's Response to the Draft Report



U. S. Department of Justice
Federal Bureau of Prisons
Central Office

Office of the Director

Washington, DC 20534

November 29, 2022

MEMORANDUM FOR SARAH E. LAKE

ASSISTANT INSPECTOR GENERAL
INVESTIGATIONS DIVISION

A handwritten signature in blue ink, likely belonging to Colette S. Peters, is written over the title "ASSISTANT INSPECTOR GENERAL INVESTIGATIONS DIVISION".

FROM: Colette S. Peters, Director

SUBJECT: Response to the Office of Inspector General's (OIG)
Draft Report: Investigation and Review of the
Federal Bureau of Prisons' Handling of the Transfer
of Inmate James "Whitey" Bulger

The Bureau of Prisons (BOP) appreciates the opportunity to formally respond to the Office of the Inspector General's above-referenced draft report. Subsequent to the events described in this report, BOP initiated several improvements to its medical transfer system including improved communication between employees involved in the process, multiple trainings for personnel, and technological advancements. The BOP offers the following comments regarding the draft report, its recommendations, and BOP's improved medical transfer program.

Recommendation One: Reassess its policies to incorporate enhanced communication among personnel involved in transfer decisions.

BOP's Response: BOP agrees with the recommendation. However, BOP notes it has already enhanced communication between BOP employees involved in transfer decisions through internal guidance memoranda issued in 2019 and 2021. These memoranda provide communication techniques regarding specified categories of inmates including those requiring special supervision, subject to broad publicity, or otherwise requiring enhanced coordination based on other security concerns. Additionally, BOP's Office of Medical Designation and Transportation (OMDT) now includes transfer codes for both custody and medical status on its internal notifications to employees involved in the inmate transfer process.

Recommendation Two: Ensure that its written procedures and practices regarding medical transfer codes and paperwork are consistent.

BOP's Response: BOP agrees with the recommendation. BOP will ensure its written procedures and practices regarding medical transfer codes and paperwork are consistent.

Recommendation Three: Provide training to BOP staff regarding the transfer process and the proper documents to be used for different types of transfers.

BOP's Response: BOP agrees with the recommendation. Since 2018, BOP has made multiple improvements to its medical transfer process and issued guidance to BOP employees regarding the same. BOP has provided OIG internal guidance documents issued to BOP employees regarding the transfer process and the proper documents to be used for different types of transfers. In August of 2019, OMDT presented an overview of OMDT medical transfer processes at BOP's Utilization Review National Symposium (URNS), and it plans to do so again in Fiscal Year (FY) 2023. BOP has also transitioned from a paper process to an electronic process in the electronic health record (EHR) for completion of treatment transfers and a BOP-wide training was held in FY 2021 to train staff on this new process. Lastly, OMDT provided training on medical designations, including medically coded transfers, in an article for BOP employees on Advancing Utilization Management to maximize BOP communication during the pandemic.

Recommendation Four: Consider modifying its policies to require BOP personnel to review an inmate's medical records before making decisions that impact the inmate's medical care.

BOP's Response: BOP agrees with the recommendation. Program Statement 6090.04, Health Information Management, addresses the use of the EHR when providing care/treatment to inmate patients. BOP will consider modifying the current policy, Program Statement 6031.04, Patient Care, to require all inmates with Medical Care Levels 2-4 be reviewed at the 14-day visit and annual Chronic Care Clinic (CCC) visit in conjunction with the required annual health evaluation. This will ensure BOP clinical providers review medical records before making decisions that impact any changes to inmate patient medical care levels. In addition, the Health Services Division (HSD) is developing a BEMR reconciliation module that would require reassessment of the inmate's medical care level after hospitalization and major medical procedures. HSD has already

created the Care Level Automation BEMR Advisory Group (CLABA) that is currently evaluating how to automatically extract information from the EHR to ensure the accuracy of inmate medical care levels.

Recommendation Five: Modify its policies to require reviews of inmate medical care levels either upon specified changes in inmates' medical care or at regular intervals, such as annually, and reassess its policies to incorporate enhanced communication among clinical providers involved in inmate medical care level decisions.

BOP's Response: BOP agrees with the recommendation. BOP will modify existing policies to require reviews of the inmate's medical care level at regular intervals, such as following significant health care changes or annually for inmates with medical Care Levels 2-4 during the annual CCC visit in conjunction with the required annual health evaluation. Additionally, it will reassess its policies to incorporate enhanced communication among clinical providers involved in inmate medical care level decisions.

Recommendation Six: Closely examine the Medical Care Level Guidelines and Medical Classification Algorithm for needed clarity and improvement.

BOP's Response: BOP agrees with the recommendation. BOP will examine the Medical Care Level Guidelines and Medical Classification Algorithm to assess any areas that can be improved to provide clarity in its guidance. BOP has already created the CLABA, an advisory group currently evaluating how to automatically extract information from the EHR to ensure the accuracy of inmate medical care levels.

Recommendation Seven: Modify the Medical Care Level Guidelines to address how an inmate's noncompliance with medical treatment should impact the inmate's medical care classification, regardless of the patient's reason for noncompliance.

BOP's Response: BOP agrees with the recommendation. BOP will modify the Medical Care Level Guidelines to address noncompliance with medical treatment. HSD has already created CLABA, an advisory group currently evaluating how to automatically extract information from the EHR to ensure the accuracy of inmate medical care levels. In addition to addressing the automation of these care levels in BEMR, CLABA

will also focus on areas that need further clarification such as considering factors like noncompliance and refusals of medically advised medications and procedures.

Recommendation Eight: Consider limiting the number of BOP personnel who receive notification of an inmate's impending transfer, especially for Broad Publicity and other high-risk inmates. For example, the BOP should consider discontinuing distribution of transfer information to group email inboxes accessible by numerous personnel, many of whom would not have reason to be notified of the transfer.

BOP's Response: BOP agrees with the recommendation. There are many departments involved in the designation and movement process. The use of group mailboxes ensures proper and timely notification regardless of staff coverage. However, BOP believes the processes should be examined closely and that information on Broad Publicity or high-risk inmates should be further limited, if possible.

Recommendation Nine: Reassess and clarify the BOP's policies regarding maintaining the confidentiality of information regarding designations, redesignations, and transfers of inmates, and provide training to BOP employees on these policies.

BOP's Response: BOP agrees with the recommendation and notes that Program Statement 5100.08 CN-1, Inmate Security Designation and Custody Classification, already prohibits the disclosure of designation information until the inmate arrives at designated facility. BOP will provide training to employees regarding this policy on an annual basis.

Recommendation Ten: Reassess its policies regarding assessing and ensuring the security of inmates at the time of designation, redesignation, and transfer and consider (a) adding specific criteria for BOP officials within DSCC, OMDT, and Central Office to consider before approving the designation and redesignation of Broad Publicity and other CIM inmates; (b) whether changes should be made to the criteria for considering an inmate to be a member, leader, associate, former member, or drop-out of Organized Crime; (c) requiring that additional categories of inmates, such as inmates of a certain level of public notoriety, be referred to Senior Intelligence Designators or the Central Office Intelligence Office, prior to transfer; and (d) adding steps for receiving institutions to take to plan for the arrival of inmates of a certain level of public notoriety.

BOP's Response: BOP agrees with the recommendation.

Recommendation Eleven: Create specific procedures for assigning inmates to units within facilities, which may include security considerations, SIS approval, and approval from the warden or other high-level officials.

BOP's Response: BOP agrees with the recommendation. The BOP will reassess policy, training, and best practices to determine any procedural changes to inmate placement within local facilities.

APPENDIX C: OIG Analysis of the BOP's Response

The OIG provided a draft of this report to the BOP, and the BOP's response is incorporated as Appendix B. The following provides the OIG's analysis of the BOP's response and a summary of the actions necessary to close the recommendations. The OIG requests that the BOP provide an update on the status of its response to the recommendation within 90 days of the issuance of this memorandum.

Recommendation 1: Reassess its policies to incorporate enhanced communication among personnel involved in inmate transfer decisions.

Status: Resolved.

BOP Response: The BOP reported the following:

BOP agrees with the recommendation. However, BOP notes it has already enhanced communication between BOP employees involved in transfer decisions through internal guidance memoranda issued in 2019 and 2021. These memoranda provide communication techniques regarding specified categories of inmates including those requiring special supervision, subject to broad publicity, or otherwise requiring enhanced coordination based on other security concerns. Additionally, BOP's Office of Medical Designation and Transportation (OMDT) now includes transfer codes for both custody and medical status on its internal notifications to employees involved in the inmate transfer process.

OIG Analysis: The BOP's response is responsive to the recommendation. However, the OIG recommends that the BOP reassess its policies to incorporate additional guidelines regarding communication among employees involved in transfer decisions, in light of the information and analysis contained in this report. The 2019 and 2021 internal guidance memoranda provided by the BOP address consultation by designators with subject matter experts in certain categories of cases, but do not address communications between designators and medical personnel, communications between designators and institution staff, or certain other types of communications. Therefore, the OIG will consider whether to close this recommendation after the BOP further reassesses its policies to determine whether additional guidelines regarding communication among personnel involved in inmate transfer decisions should be instituted, in light of the information and analysis contained in this report.

Recommendation 2: Ensure that its written procedures and practices regarding medical transfer codes and paperwork are consistent.

Status: Resolved.

BOP Response: The BOP reported the following:

BOP agrees with the recommendation. BOP will ensure its written procedures and practices regarding medical transfer codes and paperwork are consistent.

OIG Analysis: The BOP's response is responsive to the recommendation. The OIG will consider whether to close this recommendation after the BOP provides evidence that its written procedures and practices regarding medical transfer codes and paperwork are consistent.

Recommendation 3: Provide training to BOP staff regarding the transfer process and the proper documents to be used for different types of transfers.

Status: Resolved.

BOP Response: The BOP reported the following:

BOP agrees with the recommendation. Since 2018, BOP has made multiple improvements to its medical transfer process and issued guidance to BOP employees regarding the same. BOP has provided OIG internal guidance documents issued to BOP employees regarding the transfer process and the proper documents to be used for different types of transfers. In August of 2019, OMDT presented an overview of OMDT medical transfer processes at BOP's Utilization Review National Symposium (URNS), and it plans to do so again in Fiscal Year (FY) 2023. BOP has also transitioned from a paper process to an electronic process in the electronic health record (EHR) for completion of treatment transfers and a BOP-wide training was held in FY 2021 to train staff on this new process. Lastly, OMDT provided training on medical designations, including medically coded transfers, in an article for BOP employees on Advancing Utilization Management to maximize BOP communication during the pandemic.

OIG Analysis: The BOP's response is responsive to the recommendation. However, the BOP should assess what additional training is needed in light of the information and analysis contained in this report. In addition, the BOP should train its staff on any new transfer policies and procedures the BOP institutes as a result of the recommendations in this report. The OIG will consider whether to close this recommendation after the BOP provides evidence that it has provided additional training to BOP staff regarding the transfer process and the proper documents to be used for different types of transfers, in light of the information and analysis contained in this report and regarding any new transfer policies and procedures the BOP institutes as a result of the recommendations in this report.

Recommendation 4: Consider modifying its policies to require BOP personnel to review an inmate's medical records before making decisions that impact the inmate's medical care.

Status: Resolved.

BOP Response: The BOP reported the following:

BOP agrees with the recommendation. Program Statement 6090.04, Health Information Management, addresses the use of the EHR when providing care/treatment to inmate patients. BOP will consider modifying the current policy, Program Statement 6031.04, Patient Care, to require all inmates with Medical Care Levels 2-4 be reviewed at the 14-day visit and annual Chronic Care Clinic (CCC) visit in conjunction with the required annual health evaluation. This will ensure BOP clinical providers review medical records before making decisions that impact any changes to inmate patient medical care levels. In addition, the Health Services Division (HSD) is developing a BEMR reconciliation module that would require reassessment of the inmate's medical care level after hospitalization and major medical procedures. HSD has already created the Care Level Automation BEMR Advisory Group

(CLABA) that is currently evaluating how to automatically extract information from the EHR to ensure the accuracy of inmate medical care levels.

OIG Analysis: The BOP's response is responsive to the recommendation. The OIG will consider whether to close this recommendation after the BOP (1) completes the modifications of its policies and procedures described in its response, or other modifications to ensure BOP personnel review an inmate's medical records before making decisions that impact the inmate's medical care; and (2) provides the new policy and procedure documents to the OIG for review.

Recommendation 5: Modify its policies to require reviews of inmate medical care levels either upon specified changes in inmates' medical care or at regular intervals, such as annually, and reassess its policies to incorporate enhanced communication among clinical providers involved in inmate medical care level decisions.

Status: Resolved.

BOP Response: The BOP reported the following:

BOP agrees with the recommendation. BOP will modify existing policies to require reviews of the inmate's medical care level at regular intervals, such as following significant health care changes or annually for inmates with medical Care Levels 2-4 during the annual CCC visit in conjunction with the required annual health evaluation. Additionally, it will reassess its policies to incorporate enhanced communication among clinical providers involved in inmate medical care level decisions.

OIG Analysis: The BOP's response is responsive to the recommendation. The OIG will consider whether to close this recommendation after the BOP (1) modifies its policies to require reviews of inmate medical care levels either upon specified changes in inmates' medical care or at regular intervals, such as annually; (2) reassesses its policies to incorporate enhanced communication among clinical providers involved in inmate medical care level decisions; and (3) provides the new policy documents to the OIG for review.

Recommendation 6: Closely examine the Medical Care Level Guidelines and Medical Classification Algorithm for needed clarity and improvement.

Status: Resolved.

BOP Response: The BOP reported the following:

BOP agrees with the recommendation. BOP will examine the Medical Care Level Guidelines and Medical Classification Algorithm to assess any areas that can be improved to provide clarity in its guidance. BOP has already created the CLABA, an advisory group currently evaluating how to automatically extract information from the EHR to ensure the accuracy of inmate medical care levels.

OIG Analysis: The BOP's response is responsive to the recommendation. The OIG will consider whether to close this recommendation after the BOP has closely examined the Medical Care Level Guidelines and Medical

Classification Algorithm for needed clarity and improvement and provides the new or revised guidelines and algorithm to the OIG for review.

Recommendation 7: Modify the Medical Care Level Guidelines to address how an inmate's noncompliance with medical treatment should impact the inmate's medical care level classification, regardless of the patient's reason for noncompliance.

Status: Resolved.

BOP Response: The BOP reported the following:

BOP agrees with the recommendation. BOP will modify the Medical Care Level Guidelines to address noncompliance with medical treatment. HSD has already created CLABA, an advisory group currently evaluating how to automatically extract information from the EHR to ensure the accuracy of inmate medical care levels. In addition to addressing the automation of these care levels in BEMR, CLABA will also focus on areas that need further clarification such as considering factors like noncompliance and refusals of medically advised medications and procedures.

OIG Analysis: The BOP's response is responsive to the recommendation. The OIG will consider whether to close this recommendation after the BOP provides evidence that it has modified its Medical Care Level Guidelines to address how an inmate's noncompliance with medical treatment should impact the inmate's medical care level classification, regardless of the patient's reason for noncompliance.

Recommendation 8: Consider limiting the number of BOP personnel who receive notification of an inmate's impending transfer, especially for Broad Publicity and other high-risk inmates. For example, the BOP should consider discontinuing distribution of transfer information to group email inboxes accessible by numerous personnel, many of whom would not have reason to be notified of the transfer.

Status: Resolved.

BOP Response: The BOP reported the following:

BOP agrees with the recommendation. There are many departments involved in the designation and movement process. The use of group mailboxes ensures proper and timely notification regardless of staff coverage. However, BOP believes the processes should be examined closely and that information on Broad Publicity or high-risk inmates should be further limited, if possible.

OIG Analysis: The BOP's response is responsive to the recommendation. The OIG will consider whether to close this recommendation after the BOP (1) further considers limiting the number of BOP personnel who receive notification of an inmate's impending transfer, especially for Broad Publicity and other high-risk inmates; and (2) provides the OIG any related new policy or procedure documents for review.

Recommendation 9: Reassess and clarify the BOP's policies regarding maintaining the confidentiality of information regarding designations, redesignations, and transfers of inmates, and provide training to BOP employees on these policies.

Status: Resolved.

BOP Response: The BOP reported the following:

BOP agrees with the recommendation and notes that Program Statement 5100.08 CN-1, Inmate Security Designation and Custody Classification, already prohibits the disclosure of designation information until the inmate arrives at designated facility. BOP will provide training to employees regarding this policy on an annual basis.

OIG Analysis: The BOP's response is responsive to the recommendation. The OIG will consider whether to close this recommendation after the BOP (1) considers whether any modifications are needed to its policy to clarify the requirement to maintain confidentiality of information regarding designations, redesignations, and transfers of inmates; and (2) provides training to BOP employees on these policies.

Recommendation 10: Reassess its policies regarding assessing and ensuring the security of inmates at the time of designation, redesignation, and transfer and consider (a) adding specific criteria for BOP officials within DSCC, OMDT, and Central Office to consider before approving the designation and redesignation of Broad Publicity and other CIM inmates; (b) whether changes should be made to the criteria for considering an inmate to be a member, leader, associate, former member, or drop-out of Organized Crime; (c) requiring that additional categories of inmates, such as inmates of a certain level of public notoriety, be referred to Senior Intelligence Designators or the Central Office Intelligence Office, prior to transfer; and (d) adding steps for receiving institutions to take to plan for the arrival of inmates of a certain level of public notoriety.

Status: Resolved.

BOP Response: The BOP reported the following:

BOP agrees with the recommendation.

OIG Analysis: The BOP's response is responsive to the recommendation. The OIG will consider whether to close this recommendation after the BOP (1) reassesses its policies regarding assessing and ensuring the security of inmates at the time of designation, redesignation, and transfer and considers (a) adding specific criteria for BOP officials within DSCC, OMDT, and Central Office to consider before approving the designation and redesignation of Broad Publicity and other CIM inmates; (b) whether changes should be made to the criteria for considering an inmate to be a member, leader, associate, former member, or drop-out of Organized Crime; (c) requiring that additional categories of inmates, such as inmates of a certain level of public notoriety, be referred to Senior Intelligence Designators or the Central Office Intelligence Office, prior to transfer; and (d) adding steps for receiving institutions to take to plan for the arrival of inmates of a certain level of public notoriety; and (2) provides the OIG the new or revised policy documents for review.

Recommendation 11: Create specific procedures for assigning inmates to units within facilities, which may include security considerations, SIS approval, and approval from the warden or other high-level officials.

Status: Resolved.

BOP Response: The BOP reported the following:

BOP agrees with the recommendation. The BOP will reassess policy, training, and best practices to determine any procedural changes to inmate placement within local facilities.

OIG Analysis: The BOP's response is responsive to the recommendation. The OIG will consider whether to close this recommendation after the BOP (1) creates specific procedures for assigning inmates to units within facilities, which may include security considerations, SIS approval, and approval from the warden or other high-level officials; and (2) provides the relevant policy or procedure documents to the OIG for review.

OIG Analysis: The BOP's response is responsive to the recommendation. The OIG will consider whether to close this recommendation after the BOP creates specific procedures for assigning inmates to units within facilities, which may include security considerations, SIS approval, and approval from the warden or other high-level officials, and provides the relevant policy or procedure documents to the OIG for review.